

THE PRIN

cipallawes customes and estatutes
of England which be at this pre-
sent day in vze, compendiously
gathered together for y^e weale
and benefit of the Kinges
Majesties most louing
subiects, newly re-
cognised and aug-
mented.

Ep^{us} Lib^{er} & Ad^{us} Boswell

LONDINI.

M. D. XL.

20

Cum priuilegio ad imprimen-
dum solum.

The prologe of Richarde Tauer-
uerner to the reader.

Demosthenes the renowned Orator
defyneth law in this wise. The law (sayth he) is þat thing that all
men ought to obey for many skylles,
but in especial bicause law is þat inue-
tion & also the gifte of god, the decree
of pruden men, þat chastisement of wil-
ful & vnwilfull offenses, & finally the
common suretie of a realme wherby
it becomineth al men to liue which be
conuersant in þat same. Chrysippus al-
so an excellēt philosopher thus begin-
neth his booke of lawes. The lawe is
kinge of all aswel diuine as humane
affaires, the president and comptroller
of thinges honest and dishonest, the
prince, captaine and ruler of the iuste
and iniust, & it is of ciuile creatures
aswel the commaunder, what they
ought to do, as the forbiddor, what
they

The peface.

they ought not to do. Thefe aunte the
fayenges of wife mē assuredly ought
moch to inflame vs to the knowledge
of thofe thinges, wout which we ſhal
be eſtemed no men but as brute and
ſauage beaſtes. Let vs not comyt,
that it be ſayd of vs Engliſh men, as
it was ones ſaid of ꝑ men of Athens,
that is, that we make very goodly &
profytable lawes, but we uſe the not.
Certainly there can be no greater re-
proche to a common weale then thys.
One leſſon I wolde we lerned of the
auncient lawyer Romain named Cel-
ſus, and that is this. The knowledge
of lawes is not to beare away ꝑ word,
but the pyth & power of them. This
he wrote bicauſe there be many which
when good & holſom lawes be made,
ſeke not to ſe them executed, & obser-
ued, but rather how to defraude them

A.ij. and

The pface.

and to haue them vnexecuted, whiche kinde of people after the sentence of most ancient lawmakers be no lesse worthy of reprehensiō thā they which do expressly against y^e law. Now, they do (say they) against the law which do the thing that y^e law forbiddeth. And they defraude a law or statute, which the wordes of the law saued, do circūuent the meaning and sentence of it. Let vs thā so read the lawes, that we may beare awey the sentence & mynd of them, and so fulfyl and obserue the lawes, that it maye appeare that they were not made in vayne. Thus doing, we shal please god, we shal be obedient subiectes to oure prynces, and finally we shall seke our owne weale and sauetye.

THE TABLE OF THIS

BOKE.

What is law, iustice, and the prudence of lawes. fol. i.

A diuision of estates in landes or tenementes. fol. i.

Of tenāt for terme of yeres. fol. i.

Tenant at wpl. fol. iii.

Tenāt by copy of court rol. fol. iiii.

A diuisiō of freholdes. fol. v.

Tenāt for terme of life. fol. vi.

Tenāt by the curtesy. fol. ix.

Of tenant in dower. fol. x.

A diuisiō of inheritāces. fol. xiii.

Te simple. fol. xv.

Te taylor. fol. xx.

Tenante after possibilitie of issue extincte. fol. xxiii.

Of parceners. fol. xxiiii.

Of condicions. fol. xxvi.

Of liuery of seisin and of atturment, A. liij. fol. xxix.

The table.

O f seruices.	fol. xxxv.
K nichtes seruice	fol. xxxv.
O f warde mariage and reliefe.	fol. xxxvii.
S eruice of castel garder	fol. xl.
O f grande sergeantie	fol. xli.
O f petite sergeantie.	fol. xlii.
O f homage ancestrel	fol. xliii.
O f socage.	fol. xlv.
O f frank almoyne.	fol. xlv.
O f burgage.	fol. xlvii.
O f villenage oz bonde seruice.	fol. xlix.
O f rentes & of the diuers kindes of them.	fol. liii.
W hat remedye a man hath to reco- uer his rent whā it is behynd.	fol. lx.
H ow auowries ought to be made of rentes and seruices.	fol. xliii.
A n act for assignes oz grantees of reuerfions to take auantage of cō- dicions vpon fermers.	fol. xlv.

The table.

A newe acte how tithes and other
profites ecclesiastical shalbe reco-
uered. fol. cl. vi.

Of mortuaries. fol. cl. ix.

An newe acte made for thassurāce
of fermers to holde their fermes
against tenātes in tapl &c. fol. lxxi.

**That fermers shal take auantage
of condiciōs & couenātes againste
grantees of reuerfions.** fol. lxxiii.

**That fermers or tenāts for terme
of yeares shal falsefpe recoveries
for their terme.** fol. lxxiii.

An acte for thaduoydinge of reco-
ueries by collusion against tenan-
tes for terme of life. fol. lxxv.

**Of discontinuance and of a newe
acte cōcerning y same.** fol. lxxvi.

**That wrongfull disseisin is no dis-
cent in the lawe.** fol. lxxviii.

**The limitatiō of p̄scription new
ly inacted** fol. lxxix.

The table.

C Of fines and how they shall conclude the issue in taile. fol. lxxxiij.

C Of testaments or laste willes. fol. lxxxvj.

An acte for probate of testamētes. fol. lxxxvij.

C Of disposing of landes by testament or otherwise, newly enacted. fol. lxxxix.

Of mariages and towhching the degrees of consanguinitie. fol. xcvi.

An ende of the table of this present volume.

What is lawe.

Fol. J.



The law is the direction & ministratiō of iustice, & iustice is as Iustinian sayth in hys institutions a constante & permanent minde and will to render vnto euery personē his right and dutie. The prudence of lawe is a knowledge of diuine and of humane thynges, a science and perfyte notice of equite and iniquitie, of rightuousnes and vnrighuousnes. And forasmoche as a great porcion of the prudence or science of the lawes of this realme consisteth in the perfyte knowlege of estates that men haue in landes and tenementes: we shal first as compendiously, and as simply and playnlye as we can, treatē of estates.

¶ A diuision of estates.

B.1.

Ye

Tenaunte fo yearess.

Ye shal therfoze vnderstand, that who so euer hath anpe estate in landes oꝝ tencmentes, eithet he hath in the same onelye a chatell, oꝝ a free holde, oꝝ an inheritaunce. Yf he hath an estate in any landes oꝝ tencmentys but foꝝ terme of certayne yearess, oꝝ at his landlozdes wyl: so is it called a chatell, if foꝝ terme of his life oꝝ of an other mans lyfe, it is called a free holde, oꝝ franke tencement. And if he hath it to hym and to hys heyyes in fee simple, oꝝ in taylor: then we saye he hath an estate of inheritaunce.

¶ Tenaunte for terme of yearess.

Tenaunte foꝝ terme of yearess, is he to whome landes oꝝ tencmentes be dimised and lessed foꝝ the terme of certayne yearess, as is agreed bitwene the landlozde & the tenaunt.

And

Tenaunt for yerres. Fol. 22

And when the lessee I meane him to whom such lease is made doth entre by force of the sayd lees, and is in actuall possession of the same: than he is called tenaunt for terme of yerres.

And here ye shall note, that if the lessour that made the lees hath reserved vnto him a yerely rent vpon the sayd lees (as it is accustomably used to be done) yf the rent be behynd vnpayde, it shall be in his free libertie & election either to entre and distrayne for the rent, or to byngne an action of dette againste him at the law for the arreragies of the same. But in this case it is requyred, that the lessoure were seased of p landes or tenemētes at the time of the making of the lease, for otherwise it shall be a good plee in the action of dette for the tenaunt to sape, that the lessour had nothinge

Tenaunt for yeares:

In the lande oꝝ teneiment at the time of the lease made: excepte the lease were made by dede indēted, foꝝ than the p̄lce shall not lye in the mouthē of the tenaunte oꝝ lessee to plede.

And it is to be knowne that in a lease foꝝ terme of yeares, by dede oꝝ without dede, there nede no lpuerpe of seasonē to be made to the lesse, but he may entre when he wyl by vertue of his lease, wythout any further ceremonye of lawe.

Note also, that yf a man lesseth landes foꝝ terme of yeares, thoughe the lessoure chaunceth to dye befoꝝe the lessee doth entre, yct he maye entre well ynoughe. Otherwylse it is where as lpuerpe of seasonē is to be made: as in free holdes, and in inheritancees.

**Also yf the tenaūt foꝝ yeres doth
waste**

Tenaunte at wyll. Fol. 3.

Waste, the landlozde maye bypunge an
action of waste agaynste hym, and
shall recouer the place wasted, and
his treble damages.

Tenaunte at wyll.

Tenaunte at wyl, is he to whom
landes oz tenementes be lesse
to haue & holde the same at the wyl
of the lessoure. And in this case the
lessoure may put out his tenaunte at
what tyme hym lysteth. But yet ne-
uertheles, if the tenaunte haue sow-
ed the groundes with corne, in this
case if the lessoure wyl entre and put
out his tenaunte befoze harvest, the
lawe wyl gyue hym free comynge
and going to repe and cary his corne
awaye wythout any punysshment oz
dammage to be susteyned for his so-
doynge bicause he knew not at what
time the lessoure wolde entre. But

B. iij.

other

107 Tenaunte at wyll.

otherwise it is of the tenaunt for re-
teineyeres, for if he soweth y ground
and the terme of hys lease be come
out and expired befoze the cozne be
rype, in thys case that lessoure oz he
in the reuerston maye entre and take
the cozne, bycause it was the folye of
the tenaunte to sowe the grounde,
knowynge the ende of his terme.

In lyke wyse tenaunte at wyll shall
haue free comynge and going after
the time of the lessoures entree, to ca-
rye awaye hys housholde stuffe and
goodes for a reasonable space.

¶ Ye shal also vnderstande, that he
that maketh a lease at wyll, maye re-
ferue an annuell oz yearely rente, in
whiche case if the rent be behynde, he
may entre very well and distreyn the
goodes and catells of the tenaunte,
oz at his election byng an action of
Dette

Dette agaynst him.

Also it is to be knowne that tenaunt at wyl of a mese oz tenement is not bound by the order of lawe to susteyne and repaire the houses that be rupnouse, as is the tenaunte for yeares, and therfore none action of waste lyeth agaynst him. Yet if he do wylful waste: as if he plucketh down the houses, oz cutteth downe the trees: it hath bene thought by the sages of the lawe that the lessoure may brynge an action of trespase agaynst hym and recouer hys losses thereby susteyned.

¶ Tenaunt by copy of
courte rolle.

THere is an other kynde of tenaunt at wyl, whiche is called tenaunt by copy of the courte rolles. And this is when a man is ceased of
a ma

Tenaunte by copy

a maner wythin whiche, it hath bene
bled tyme out of mynde, that the te-
nauntes within the pꛛecincte of the
said maner, haue holden landes and
tenementes to them & to their heyres
in fee simple, fee taylor, or for terme of
life, at the wyll of the lord accoꝝding
to the custome of the maner. And such
a tenaunte can not aliene or sell his
land by his dede, for if he do, the lāde
or tenement that is so aliened and
sold, is forfayted into the lordes han-
des, but if he wol alien his copy hold
lande to an other, he must accoꝝding
to the custome, come into the lordes
courte, and there surrender it vnto
the lordes hande, to the vse of hyin
that shall haue the state. The forme
of which surrender is cōmonlye vſed
to be this.

**Ad hāc curiam uenit A. de A. & sur-
sum**

sum reddit in eadem curia unum
mesuagium. &c. in manus domini
ad usum C. de D. & heredum suorum
uel heredum de corpore. &c. Et sus
per hoc uenit prædictus C. de D. &
cœpit de domino in eadē curia mes
suagium prædictum, habendum &
tenendum sibi. &c. ad uoluntatem
domini secundum consuetudinem
manerij, faciend. & reddend. inde
redditus, seruicia, & consuetudines
inde prius debitas & consuetas. &c.
Et dat domino pro fine. &c. Et fecit
domino fidelitatem.

These as I said be called tenauntes
by coppe of courte rolle, bicause they
haue none other euidence to shewe
concernyng theyr landes, saue onely
the copies, of þe rolles of theyr lordes
courte.

Tenaunte by copy

Neither can these tenauntes sue or be sued for such landes, in þe kynges courte by wyte or otherwyse, but if they wylle implede or sue others for suche coppe landes, they must do it by way of playnt in the lordes court after this sozte.

A. de B. queritur uersus C. de D. de placito terræ, uidelicet de uno mesuagio, xl. acris terræ. iiij. acris prati &c. cum pertineñ. Et facit potestacionem sequi quærelam istam in natura breuis domini regis assise mortis antecessoris ad cōem legem uel &c. plegii de prosequēdo F. G. &c.

¶ Nowe althoughe some suche tenauntes haue an inheritaunce accor dyng to the custome of the maner, yet in very dede they are but tenants at the wylle of the lord. For, as some men

Tenaunt by cople Fol. 6.

men thynke, if the lord wyl expell
them and put them forth, they haue
no remedy at al, but to sue vnto their
lord by weye of petition, despyng
him to be good vnto the. For if they
myght haue any reinedye by the law
then shulde they not be called (saye
they) tenautes at the wyl of the lord
after the custome of the maner. But
other men of no lesse lernynge and
prudency haue bene of contrary sen-
tence: as lord Bysan chiefe iustice,
in the tyme of king Ed. the iiij. whose
opinion was alwayes, that if suche
tenaunt by the custome (payenge his
seruices) be eicted and put forth by
his lord without cause reasonable,
he maye very wel byng and mayn-
teyne an action of trespase agaynste
his lord at þe comon law: as appereth
termino Hilarij anno. rxi. E. iiij. Al-
so

Tenaunte by copye

So lozde Danby chiefe iustice in like-
wylse, was of the same iudgement: as
appeareth Termino. Mich. anno. vii
Ed. iij. where he saith that the tenāt
by the custome is as wel inheritable
to haue his lande after the custome,
as is he that hath a free holde at the
common law, but the determination
of this question I remit to my great
maysters, which cā solue the knottes
and enigmaes of the lawe.

For asmoche as yet styl of this mat-
ter, Causidici certant & adhuc sub
iudice lis est.

¶ Also ye shall vnderstand, that the
vsage of some Manour is, when the
tenaunte wpll surrender his land to
the vse of an other, that he shall take
a wand in his hande, and deliuer it
to the stewart of the court, and the
stewart shal deliuer the same wand
in

of courtrolle. Fol. 7.

in name of seisin to him that shall take the land: and suche a tenaunte is called, tenaunte by the verge. Diuerse other customes there be of surrendryng of copy hold landes, which here for tediousnes I wyl omitte. And forasmuch as tenauntes by custome of the Manoure, haue by the course of the common lawe no free holde: therfore they be called tenauntes of base tenure.

Hytherto I haue treated of the first membre of oure diuision, that is to wytte, of chatelles, for as I sayde, all leases for terme of yeres, and at will be accopted in the law but as cateles and be compysed vnder that name, saue that they be called cateles reals where as kyne, oxen, horses, moneye, plate, corne, and suche lyke be called chatell personalles. Nowe we wyl

A diuision of free holdes:
proceede to the explanaciō of the second
membze, that is to say, of free holdes

20 A diuision of free holdes.

Free holdes oz franke tenementes
a man may haue in sūdyr wyse,
foz ether he is leased foz terme of his
owne lyfe, oz foz terme of an other
mans life. Yf he be leased foz terme of
his owne life, either he haue gotten
such estate by way of purchase, oz els
the law hath entiteled him therunto.
I call it by purchase, whether he com
meth vnto it by his owne barganing
and procutemēt, oz by the gyft of his
frende, and I call it by the operation
and intitelynge of the lawe, whan a
man marryeth a woman that is an in
heritres, and hath issue by her, and
she dyeth, nowe shal he haue the lan
des durynge his life by the course of
the lawe, and shal be called tenaunte
by

Tenaunt for terme of life.

by the curtespe of Englande.

In likewise, yf a man be seased in fee simple: or fee tayle of landes, and taketh a wyfe, and he dyeth, the law giueth vnto the wyfe the chyfde parte of her husbandes lādes for terme of her life, and she shal be called tenaunt in dower.

Tenaunt for terme of life.

Tenaunte for terme of life, is he that holdeth landes or tenementes for terme of his owne life, or for terme of an others lyfe. Howe be it the most frequent and common manner of speakynge is to call him that hath estate for terme of his own life, tenaunte for life, and him that hath estate for terme of an others life, tenaunt pour terme dautre vie, that is to saye, tenaunte for terme of an others life.

Ye

Tenaunt for terme of life.

Ye shal note, that like as he that maketh the lease is called the lessour, & he to whome the lease is made is called the lessee, so he that maketh a fessement is called the fessour, and he to whome the fessement is made, the fessée.

Also if tenaunte for terme of lyfe, or tenaunte for terme of an other mans life do wast, the lessour or he in the reversion shall maynteyne very wel an action of waste agaynst hym, and shall by the same recouer treble damages.

Finally, ye shall vnderstand that by an acte of parltamēt made in the xxvii. yere of oure Souerayne lord that now is, king Henry the eight, it is enacted that no free holde, nor estate of inheritance shal passe ne take effecte but by dede indented, sealed & enrolled

Tenaunt by the curtesie. Fol. 9.
enrolled in one of the kynges courtys
at Westmynster, or els wpythin the
same countie where the lande dothe
lye: as by the sayd acte moze at large
appereth.

20 **T**enaunt by the
curtesi.

Tenaunt by the curtesye of Eng
lande, is he that hath maryed a
wyfe inherited, and hath had issue by
her, and she is deade, in this case the
lawe of Englande permytteth and
suffreth the husbande of suche wyfe
to reteyne all his wyues landes that
she had either in fee simple, or fee
taylor so longe as he lyueth: And this
is by the curtesye and briganitie of
Englande, for this thing is vbled in
none other region.

But in thys case it is requyred
that the chyld be vitall, that is to
C. i. say

Tenaunt by

**saye, be bozne and broughte forth in
to this worlde aliue, and therfoze the
common sayeng hath bene, that on-
les the chylde be harde crye, the fa-
ther shall not be tenaunte by the cur-
tespe, for the onelye proue and argu-
ment of lyfe in an infant new bozne
is the vagite and cryenge.**

**Ye shal furthermoze vnderstand,
that onlesse the husbände be in actual
and reall possession of his wyues
landes, & sealed of them in her right,
he shall not be tenaunte by curtespe
after her death. And therfoze yf lan-
des descende to a mans wyfe, so that
she is tenaunt in the lawe, and to eue-
ry mans accion, yet if the husbände
haue not made an actuall entredu-
rynge the couerture and matrimony
betwene them, he shall not be tenaunt
by the curtespe, for it shall be reputed
and**

and lagged his folp and negligence
that he wolde not entre in her lpe
tyme.

Othertwyle it is of aduoufons,
ettes, and such other thynges, which
forthwpyth when they descende be in
a man o; woman wythout any entre
o; further ceremonie of lawe.

Note, that if tenaunte by the cur-
tesse of England wyl suffice o; make
any wast in the landes o; tenementes
that he so holdeth, he is punysshable
therfoze by action of wast.

Also it is to be knowne, that of
thinges that be in suspense, a man
shall not be tenaunt by the curtesse,
and therfoze yf a man be the tenaunt
in fee simple of certayne lande, and
doth entremary wyth a woman that
is the seignoresse o; lady of the same
and hath issue by her, and she dyeth,

yet he shal not be ternaunt by the cur-
tesye of the lordshipp or seignorie, be-
cause himself is ternaunt of the land,
and therfore the lordshipp is suspen-
ded for the tyme, for a man can not be
both lord and ternaunt of one thing
but if he had not bene ternaunt of the
lande, he shulde haue had the lord-
shipp after the deathe of his wyfe by
the curtesie of Englande very well.

Of ternaunt in dower

Ternaunte in dower, is she that
hath bene married to an husband
that was during the matrimony be-
fore them seised of landes or ten-
ementes in fee simple, or fee tail; which
is now dede and she seised of the
third parte of her husbandes sayde
landes for terme of her life. For by
the common lawe of the lande, if the
husbande be at any tyme during the
couerture

conuerture sealed lawfully, whether it
 be by purchase or by descent, either in
 fee or in tail; & by, his wife ought
 to be endowed by the toulfe of the co-
 mon lawe of the kyngde fore. And in
 some places by an aunciente custome
 she shalbe endowed of the moite, yea
 and though the husbande were ne-
 uer sealed actually during the couer-
 ture, yet if the landes be called upon
 by the lawe, so that the lawe call
 let him tenant to euery mans acti-
 on, it suffiseth for the woman to de-
 mande her dower, for it were unrea-
 sonable, that the negligence & careles-
 nesse of entrepryse of the husbande
 shulde hurte the wyues. *Item*
 Otherwise it is, as I sayde before,
 of tenaunt by the curte, for if landes
 descende to a woman couert and the
 husbande for slouthfulnes or negli-
 gence

gete doth not entre in his wyues life
he shal not be ternaunt by the curtesie
for by all lawes the wyfe oweth obe-
dience and subiectiō to her husbāde
and therfore she can not compel him
to entre; but when landes descend to
the wyfe, the husbāde onelye haue
power to entre at his pleasure,

And ye shall vnderstand, that on-
lesse the wyfe be passed the age of ix.
yeares at the tyme of her husbādes
deathe, she shall not be endowed by
the common lawe.

But it is to be knowen that a womā
maie by diuers wayes estoppe and
preiudice her selfe of her dower: as if
she comyt any crime for which she
is atteynted of treason, murther or se-
lonye, she gette no dower, not wyth-
standyng she hath obteyned her par-
done.

Also

in dower.

Fol. 12.

Also yf after the deathe of her husband she taketh a lease for terme of lyfe of the same landes wherof she is indowable she losed her dower of the same. Moreover yf she departeth from her husbände and lyueth in aduoutrye wpyth an other man, and not reconcieled agayne to her husbände wythout coercion of the ecclesiasticall power, she lesseth her dower after her husbändes deathe.

She shall be also barred of dower yf she wyll wythholde from the heire the charters and euidence concerninge that lande wherof she asketh dower: But none other saue the heire can wythholde her dower for this cause.

It maye not be vnkowne also of what thynges she maye demaunde
dowe

Of tenaunte

dower, and of what thinges not. Of landes messuagies, aduoucons, rent charges, rente seruyces, or signories in grosse or otherwyse, of villaynes, of comons certayne, of estouers, certayne, she is dowerable. But of compons, and estouers sans nombre, althow of annuities, of homage, of thinges of pleasure, as of seruyces of painet of roses, and semblable she shall not be endowed.

There be yet two other kindes of dower, the one is called dowerment ex assensu patris, and the other is called dowerment de la plus beale partie. that is to saye, of the fairest parte.

Dowerment ex assensu patris, is whan the father is seased of landes in fee, and his sonne whiche is heyre apparaunt endoweth his wife at the churche doore, whan he is espoused, of
par

parcell of hys fathers landes, wyth
the assente of his father in wytyng
testifieng the same assent, if in thys
case her husband dye, she may forth-
wyth entre into the landes so assig-
ned vnto her wout further appoy-
ntyng or proces of law, although the
father of her husbände be yet aliue &
in actual possession of the lande. But
if she thus do, and take her to thys
endowment at the churche doze she
can not haue her dower by the com-
mon lawe of the thyrde parte of all
her husbādes landes, or any parcell
of them how be it if she wyll refuse
this assignement made vnto her at
the church doze, and demaund dower
at the common lawe, she maye verpe
well.

A man maye also endow his wyfe at
the time of the spousailes of his own
landes

Tenaunte of
landes, whiche he hath in his owne
possession, and that dower is called
dower ad ostium ecclesiæ

Dowment Dela plus beale, that
is to saye, dowmente of the sayreste
parte shall be in thys case. Whan
a man is seased of landes whiche he
holdethe of an other man by knygh-
tes seruice, and of other lādes which
be of socage tenure, and hathe issue,
whych is wythin the age of .xiiij.
yeares & dye, and the lord of whom
the lande is holden by knyghtes ser-
uice entrethe in to the lande holden
of hym, and the mother of the chylde
entrethe in to the socage tenure as
gardeyne in socage, yf in thys case
the woman wyl bynge a wytte of
dower agaynste the lord whych is
gardeyne in cheualrye, he may plede
the speciall mater and shewe, howe
she

she as gardeyne in socage hath so moche lande and pray the court that she maye be suffred to endowe her selfe of so moche lande beyng in her owne custodie, as amounteth to the thyrde parte of the hole landes. And than the iudgemente shall be, that the gardeyne in chivalrye shall receyve the lande holden of hym quyte from the woman duetyng the nonage of the warde. After which iudgement she maye go and in presence of her neighbours endowe her selfe of the beste parte of that whiche is in her custodie, amountynge to the thyrde parte of the hole, and than is she called tenaunte in dower de la plus beale.

A diuision of inheritance.

Hi-

A diuision of inheritaunces.

Herunto I haue spoken of free holdes, now we remayne to treat of inheritaunces, not that inheritaunces be no free holdes, for they be free holdes also, but the other estates of whiche I haue here tofore treated be onely free holde, and of no hygher nature, where as a state of inheritance, although it be a free hold, yet it is not to be called by þe name, sythe it is a farre more excellent and greater estate. But ye shall vnderstande that of inheritaunces some be of more amplitude and excellençe than other some be, as that inheritaunce whiche is pure, simple, and without limitation of what heyres, is it called fee simple. But when I make a limitaciō of what heyres, thā is it called fee tayle, of which also be two sortes, as herafter more at large shall

shal be declared. Nowe the nature of fee simple is to be set forth wyth oure accustomed compendiousnes.

Fee Simple.

Fee simple is (as I sayd) the most ample & large inheritaunce that can be in this realme diuised oꝝ excoꝑitate, as that whiche a man hath to hym and to his heyres simply without any further limitacion, foꝝ whether they be of his owne bodye begotten oꝝ not, so that they be the next of his kinne, and wythin the degrees it suffiseth.

So then tenaunte in fee simple is he that hath landes oꝝ tenementes (whether it be by purchase oꝝ by disceite) to him & to his heires foꝝ euer. Foꝝ if a man will purchase landes in fee simple, he must nedes haue these twoꝝ des, his heyres in his purchase, foꝝ these

Fee simple.

these be the onely wordes that make an estate of inheritaunce. Therfoze if landes be gyuen to a man for euer & no mencion be made of his heires: he hath an estate but for terme of his lyfe, bycause these wordes (his heires) do lacke.

Yet neuertheles, if a mā by his testament doth deuise landes to an other in suche where the custome wyl serue so to do, though he maketh no mencion of heires, but saythe that he bequeytheth to suche a personne suche landes, to haue & to hold to him and to his assignes for euermore: here a state of inheritaunce doth passe, for in testamentes the wil and intent of the testatour is to be pondyed, & not the formal & prescripte wordes of þe law.

Also these termes inthe lawe, franke mariage, and franke almotie
that

Fee simple.

that is to saye, free marriage and free
almose do include in them wordes of
inheritaunce. And therfore if I giue
landes to a man wyth my daughter
in franke marriage wythout further
addicion or mencion of heires, this is
an estate of inheritauce, as we shal
hereafter declare moze plentioulye.
In likewyse it is of landes giuen to
an house ecclesiastical in pure & frāk
almes. Moreover if landes be giuen
to a mā & to his blode, or to him & to
his seed, he hath in both cases a state
of inheritauce for in þ one he hath a
fee taile, & in thother a fe simple. For
this word seed, and bloud, and suche
lyke do implie wordes of inheritāce.

But nowe it is to be sene who be
sayde a mannes heyres in the lawe.
Ye shall therfore knowe, that my
brother or syster, by the halfe bloude,
that

Fee simple.

that is to wytte, by the fathers syde,
and not by the mothers, or contrary
wyse by the mothers and not by the
fathers, shall neuer be myne heyre,
noꝛ none that come of them.

Neither my bastarde can be myne
heyre, noꝛ myne owne naturall fa-
ther ne mother, noꝛ grandfather ne
grandmother can be myne heyre.

For it is a principle and grounde in
the lawe, that inheritaunce may lini-
ally descend, but ascende it may not.
And therfoze if I haue landes in fee
simple and dye wythout issue of my
bodye, my father can not be myne
heire, but my fathers brother or syl-
ter shall, and then if my vncle or aunt
dye seased wythout issue, my father
shall haue the landes as heir to myne
vncle or to my aunte, but heyre to me
he can not be. But it maye go from
me

me to myne vnkle oz aunte well y-
noughe, for that is not called a linial
ascension but a collatrall.

And ye shal note, that by the commo
lawe of this realme, my eldest sonne
shall haue the hole inheritauce, and
after hym if he hathe no issue, the se-
conde sonne, and so forth. And if I
haue no sonnes but daughters, than
shal al the daughters together inhe-
rite, if I haue no issue at all, neither
sonnes ne daughters, than shall my
eldest brother in heritage succede me
but if I haue no brother, than my
systers if I haue any, if not my vnkle
by my fathers syde, if the landes be
of myne owne purchase. And to be
shorte if there be none in lyfe of my
fathers syde, it shall goo to my mo-
thers syde, and if there can be found
no heyre neither by fathers syde ne

Fee simple.

yet by mothers, then shall it reuerte
and eschete (as they call it) to the lord
of whome it was holden, for euerye
lande must nedes be holden of some
lord, as shall be here after shewed.
But if landes descende vnto me by
my mothers syde, than if I faile of
issue, the landes shall descende onely
to my heires of my mothers syde, &
nauer to myne heires of my fathers
syde: as on the contrarye syde, yf I
haue landes or any hereditamentes
by discēt frō my father or his blode,
they shall neuer descend to my heires
by my mothers syde.

Thus yee see a greate difference in
this behalfe, betwene purchased lan-
des and landes which descende from
my auncestoure.

Yf there be thre sonnes, and the
myddell sonne purchaseth landes &
dye

Dye wythout issue, the heldeste shall haue the lādes and not the yongest.

Also it is a principle in oure law, that none can be myne heyze of landes that I holde in fee simple, onles he be myne heyze by the hole blode that is to say, both by father and mother, for if a man hath issue two or thre sonnes by sondry wyues, and the eldest purchaseth landes in fee and dyeth wythout issue, his halfe bryethren I meane those þe be not his bryethren bothe by the fathers syde & mothers syde shall not haue the lande, but it shall go to his vncle. Lykewyse if a man hath by his fyrste wyfe a sonne and a daughter, and by his seconde wyfe an other sonne, and the sonne by the fyrst wyfe purchaseth landes in fee, and dyeth wythout issue: the syster german shall haue the landes

Fee simple.

by discēt as heyze to her bzother, and not to the yōger bzother. Otherwise it is of landes oz other hereditamēt; entailed as shalbe herafter specified.

Also if a man be seised of landes in fee simple, and hathe issue a sonne and daughter by one wyfe, and afterwarde a sonne by an other, and dyeth, and the eldest sonne entreth in to the landes, and after dyeth wythout lawfull issue of his body, the daughter shall haue the landes and not the yongest sonne, and yet the yongest sonne is heyze to his father, but he is not so to his bzother. But if in thys case the eldeste sonne had not entred after the death of his father but had died befoze any entre made by hym, than shal not the systre germaine entre but the yonger bzother is heire to his father, bicause the eldest bzother was

was neuer in actuall possessiō, which
is requisyte to þ personne that clay-
meth to be heyze collaterallye. But
to the lynniall heyzes, it suffiseth that
the auncestour shuld haue bene heyz
yf he had liued, I meane as thus. A
man is seased of landes and hath is-
sue, a sonne & daughter by one wyfe,
and afterwarde a sonne by an other,
he dyethe, the eldeste sonne entrethe
not, but dyeth wythout issue befoze
he can make any actuall entree, hys
syster shall not haue the landes as
heyze to her bzoother, bycause her bzo-
ther was neuer actually possessed,
but þ yōger bzoother shall haue them
as heyze to his father. Yet if the eldest
sonne in that case had lefte behynde
him issue of his body, whether it had
bene sōne oꝝ daughter, this issue not
wythstandyng that the father of the
D. iij. issue

Issue was neuer possessed either actually, or in þ law, shal haue the lādes, and shal conuey his discent from his father, for the sonne or daughte is linal heyre, where as the brother, sister, vncle, aunt. &c. be heyres collaterall, and so obserue a dyuersitie.

I call an actuall possession, whan a man entreth in dede in to landes to him descended, but a possessiō in lawe, is called when landes be descended to a persone, ann he hath not yet really and actually etred in to them. For notwithstandinge that he is not in actuall possession yet he is possessed in the lawe, that is to say, in the eye & consyderation of the law, for asmuch as he is tenaunt to euery mans action that wyl sue for the sayd landes, for els there shulde insue an intollecable inconuenience, as we shal moze
copie

coppouly open in an other place.

Ye shall vnderstande that thys
woꝛde inheritaunce is not onely to
be accomodate and applied to that
whych cometh by discente from a
mannes auncestours: but also to eue
ry purchase in fee simple, oz fee taile.

Fee tayle.

E

Ye shall vnderstande, that before
a certayne statute called the sta-
tute of Westminster seconde, there
was no state tayle, but all was fee
simple; eyther purely that is to saye,
wythout condition oz condicinallye:
as appereth by the pretence of þe said
statute, but now sythens the promul-
gating of that statute diuers formes
of state tayles haue rysen.

Fee tayle is whan it is prescribed
and lympted in the gifte, what hey-
res and by whome engendred shall

D. iiii.

inherit

Fee tayle.

Inherite. As for example I gyue landes to a man and to his heyres and go no further, this is fee simple: but if I make a limitation, and adde of his body begotten, now is it fee taile that is to saye, a fee or inheritaunce limited, prescribed, determinate, or assigned. So that if I gyue landes to a man and to his heyres, he hath fee simple, but yf I gyue landes to hym and to hys heyres of hys body lawfully begotten, he hath but a fee taile, for asmoche as I appoynte, lymytte, prescribe and determyne the heyres, and for lacke of suche heyres the gyfte shall be expired and worne out, & the landes shall reuerte agayn to the gyuer or his heyres.

But ye muste obserue that there be two kyndes of fee taile. There is a generall taile, and there is a spect-
all

all taile. Fee taile generall is as
where landes be giuen to a man and
to his heyres of his bodye begotten,
without anye mencyonyng and ex-
pressyng by what woman they are
to be begotten. And therfore yf a mā
be tenaunte in the generall taile of
landes, and taketh a wyfe and hath
issue by her, and she dyeth and after-
warde he takethe an other wyfe, of
whom he hath also other issue, here
either of these issues is inheritable to
this land entayled. But if I expresse
in the gifte by what womā the herres
shall be procreate and ingēdred, then
is it an especiall taile, as for exemple
to make the thynge playne, if landes
be gyuen to a man and to the heyres
of his body lawfully begotten by ka-
therin his wyfe, this is an especiall
taile, for the issue of him begotten by

Fee tayle.

an other woman, shal neuer inherite by force & vertue of the tayle. Apyke wyse it is, if landes be giuen to a woman and to þ heires of her body lawfully begotten (& shewe not by what man) this is a general taile, but if I adde & sape by suche a man her husbände, than is it an especiall taylle.

Also yf I gyue landes to a man and to hys wyfe, and to the heyres of there two bodyes lawfully begotten: thys ys an especyal tayle, as wel in the husbände as in the wyfe,

Semblably it is, yf a man gyueth landes to an other man wyth hys daughter oz kynswoman in francke mariage, thys emplyeth a state tayle especiall, and in thys case as wel the man as the woman hath estate in in the speciall tayle.

But yf I gyue landes to a man
and

and to suche a woman, and to hys
heyes that he shall begette of her:
here the woman hath estate but for
terme of her lyfe, and the husbonds
an estate in the espycally tayle. In
lykewise it is on the womans behalfe,
as if I gyue landes to a man and to
hys wyfe, and to her heyres of the bo
dy of her said husbonds engendred,
he hath an estate but for terme of
lyfe, and she an estate in the speccally
tayle. But in bothe cases, yf I hadde
sayde to the heyres and not hys or
her heyres, than shulde eyther of
them haue hadde an estate in the spe
ccally tayle, bycause thys worde hey
res is as well referred to the one as
to the other.

Ye shall also vnderstande, that yf
landes be giuen to a man, and to the
heyres males of his bodye, this ys a
state

Fee tayle.

state tayle, and in this case the heyze femalle shall neuer inherite.

Finally it is to be noted, that of landes whych a man hath in fee simple, the possession of the brother shall cause the syster germayne that is to saye, the syster bothe by the fathers syde & mothers, to inherite, and not the brother by the halfe blod, as here tofoze was said, but of landes which be entayled otherwise it is. Therfoze if a man be seysed of landes in the generall tayle, and hath issue by hys first wyfe, a sonne and a daughter, and also a sonne by an other wyfe, & dyeth, and the eldest sonne entreth in to the landes & after dyeth, the suster germayne shall not haue the landes but the yonger brother of the halfe blode, bycause whosoever shall inherite landes in taile, must claym them

as

Tenaunte after possibi Fol. 23.

as nexte and immediate heyre, not to hym that dyeth last seased of þe landes but to hym vnto whome the landes were fyrst gyuen, whyche in the case befoze remembred, is the sonne and not the daughter.

Thus ye shal marke obserue a great diuersitie bytwene the foyme of succession in landes of fee simple, and the foyme in fee taylor.

**Tenaunt after possibilitie
of issue extincte.**

Whan landes or tenementes be giuen to a mā and to his wife, and to the heires of there two bodiees lawfully begotten, yf in thys case either of thein chaunce to dye befoze they haue issue betwene them, he or she that ouerlyueth hys styl tenaunt in taylor, but wythout all possibilitie of any issue that can be heyre to these landes

litie of issue extincte.

landes entayled, and for thys cause he or she thus ouerluyng is called ternaunte after possibilitie of issue extincte, for in suche a ternaunte is all possibilitie of issue that maye be inheritable to these landes by force of the gyfte in tayle vtterlye extincte and quenched, and by his or her deth the state tayle shall expyre, cease, and be abolyshed for ever and shall reuerter agayn to the gyuer or donoure from whence it came.

Yet forasmuche as thys ternaunt after possibilitie of issue, hadde ones an inheritaunce in hym, he shall not be punyshed by an action of waste, though he makethe neuer so moche waste in the landes and tenementes, whereas yet in effecte he is but a ternaunte for terme of lyfe.

Of perceners.

Hitherunto

Hitherunto I haue made a com-
pendious and short declaracy-
on of estates of al sortes. But where
I sayde that among susters there is
no prerogatyue or preminence con-
cernyng the inheriting of theyr aun-
cestoures landes, but that they shall
be al together inheritours, and make
as it were but one heyre: it is expedi-
ent to make a further processe in this
behalfe, and to shew howe & in what
maner this partition shall be made.

(But ye shall vnderstande that
there be belyde parceners at the com-
mon lawe, whyche be onelye susters,
also parciners by custome, whiche is
amonges brothers contrarpe to the
course of the common lawe, and this
custome is in Kent, and in other pla-
ces where landes and tenementes be
of the tenure of Gavel kynde.

Ye

Of perceners

Ye shall thefoze knowe þ̄ whan a mā
is seised of landes in fee simple oꝝ fee
taylor, and hath no issue but dought-
ters, and die, and the doughters do
enter in to the landes thus descēded
vnto them, nowe they be called parce-
ners, oꝝ coheyrers, & by a wyrt called,
De p̄tione faciēda brought by on
of them agaynst the others, they shal
be constrayned by the lawe to suffre
an egall particion to be made of the
landes bytwene them.

Nowe partycion maye be made
in sundrye wayes. One waye is whā
they them selues do make particion
bytwene them of the hole herytage
and do agree vnto the same and en-
tre euery one in to her parte so alot-
ted vnto her.

An other is whan by all theyre
agremente an consente one common
frende

Of parceners. Fol. 211ij.

frende do make the particion. In
whych case the eldest syster shal haue
the fyrst election, and after her the se-
conde suster, and so forth. But if they
agree that the eldest suster shall make
the particion, and she maketh it, then
the eldest shal not chuse fyrst, but shall
suffer all her sisters to chose befoze
her, as it is thought.

There is also an other forme of
particion, whiche is egally to diuide
the landes into so manye partes as
there be coheires oz parciners, and to
wyte euery parte so diuided in a se-
uerall scroule of paper, and to putte
the sayde scroulles in to a bonette, oz
to enclose them seuerally in balles of
ware, and than the eldeste suster to
chuse whych balle she wyl, oz to put
her hande in to the bonet and to take
a scroule, & to holde her to her chaunce

E.i.

and

Of perceners.

and allotment, and so consequentl^ye
euery suster after other.

And ye shall note, that partition
by agreement maye as well be made
by nude and bare wordes wythout
wrytynge as by wrytynge.

That yf any of the perceners wil
not suffre any partition to be made
than may the other that wolde haue
partition, purchase a wryte called De
partitioⁿe facienda agaynste them
that refuse partition, to compell the
same to suffer partition to be made
acco^rdyngly, and than by the iudge-
ment of the courte the sheryfe by the
serement^e of twelue men shall make
partition bytwene them, and shal as-
signe to eche suster her porcion, as he
shall thynke good, wythout g^ruynge
anye election to the eldeste.

And if two Manours of meeses
descende

descende to two susters, and the maners be not of egall value, than may she, to whom the lesse maner is allotted, haue assigned vnto her a rente proportionably out of the others maner.

Finally, ye shall vnderstande, that if a man be seased of landes in fee simple, & hath issue two daughters, and giueth wyth one of his daughters to an other man that is to mary her the thirde or fourth parte of his lande in franke mariage, and dyeth, if in thys case the daughter that is in this wise auainted, wyl haue her porcyon of her fathers heritage, she muste putte her lande gyuen vnto her in franke mariage in hochepot newe agayne. I meane she must be contèted to suffer her sayde landes to be commixte and mengled wyth the other landes

Of parceners.

of whych her father dyed leased in fee simple, so that an equall diuision maye be made of the hole, or elles she shall haue no parte of those landes, of which her father died leased. But if her father had made vnto her but a common gifte in taile, or a feffement in fee, she shulde not nede to put her landes in hochepot, but may retayne them styl, & also haue as good a part of the rest of the landes of which her father dyed leased, as her other sister or sisters. For a gifte in francke marriage, is accompted the moste free or moste liberall gifte that can be, and that whych the lawe iudgeth to be onely for the aduauncement and bestowynge of the daughter, where as feffementes in fee and also common giftes in taile be accustomably for other causes, and for the aduauntage

ca=

Of condicions.

rather of the gyuour, oꝛ lessour then
of the taker.

Of condicions.

Foꝛasmuche as euery estate is ei-
ther pure, oꝛ condicionall, it were
not amysse somwhat to make a decla-
ration of the nature and efficacye of
condicions. Wherfoze ye shal vnder-
stande that of condicions, some be ac-
tuall condicions, & be called expresse
condicions oꝛ cōdiciōs in dede, and
other some be cōdiciōs in law whych
be called also in latine, *Condiciones*
tacitæ, siue *condiciones implicitæ*,
bycause they be secretely implied by
the lawe and not expresse.

Condicions in dede be such as be
knynt and annexed by expresse wordes
to the fessemente lease oꝛ graunte, ei-
ther in wyting oꝛ without, as foꝛ exē

E.iiij.

ple

Of condicions.

ple if I infeffe a man in certayne landes reseruyng to me & to my heires so moche rent yerlye to be payde at suche a feast, and for defaute of payment, that it shalbe lawfull for me to reentre, thys is a feffement vpon condicion of paymente. For the not payment of the rent shal dissolue the feffement. Semblably it is of gyftes in taylor, leases. &c.

But yf the condicion be, that for defaute of paymente of the rent, it shalbe lawfull for the feffoure to entre agayne in to the landes, and to holde them tyll he be satisfied of the rente, this condition not performed dothe not dissolue the feffement, but only gyueth to y^e feffour an authoryte to reteine the landes (as it were by way of distresse) tyll he hath leuyed the arerages of the rent.

and

And ye shall obserue, that condicions be somtyme made to be perfozmed on the fessees behalfe, and somtyme on the fessours behalfe.

On the fessees behalfe, as whan I infesse you of landes vpon cōdicion that ye shall do suche an acte, as to pay vnto me oꝛ to myne heyres such annuall rent,

On the fessours behalfe, as whā I make a fesseiment vnto you vpon cōdicion that yf I pay oꝛ cause to be payde vnto you befoze suche a daye suche a somme of money, than it shal be lawfull foꝛ me to entre agayne & retein my landes in my foꝛmer estate In this case ye that be the fessée, are called tenaunt in moꝛgage, which is as moch to saye as a dede gage, and it semethe that the cause why it is so called, is foꝛ asmoche as it is doubtful

Of condicions.

full whether the feffoure wpll pay at the daye prescribed suche somme of monye for the redemption of hys landes or no, for if he do not, his title or intresse in the landes thus gaged, & oppignozated is vtterly extinct with out all hope of renuyng.

Ye shall note that yf the morgageoure dyeth befoze the daye of payment, hys heyre maye redeime the lād very well euen as well as his aunceltoure that morgaged the land might haue done although there be no mention made of heyres in the wrytinge.

And yf whan the monye is lawfully by the morgageour or his heire profered, and the feffee refuseth to receyue the same, the feffoure or hys heyre maye entre, and then hath the feffee no remedy for his mony at the common lawe.



Ye

Ye shal vnderstā also that some condicions be vtterlye voyde in the lawe, and of none efficacy or strēgth, as if a fessement be made of landes in fee simple vpon condiciō that the fessce shal not alien or put awey this same to none other, this condiciō I saye is voyde, bycause the fessce is restrained of hys hole poure that the lawe giueth in suche case vnto hym, and whiche power and libertie, is in maner included in euery fessement. Yet I maye abbydge hym of parte of his powre, as to condiciō wyth hym that he shal not aliene the landes to suche a personne or suche. But of gyftes in taylor other wyse it is, for yf I gyue landes to a man and to the heyres of his body lawfully begottē vpon condiciō that he nor his heires shall aliene the landes to none other

Of condicions.

persone, this condicion is good and effectuell in the lawe, and if he or his heyres contrary to the condicion do aliene them, than the gyuer or hys heyres maye very well entre and re- teyne the lādes for euer, bicause this condicion doth stande wyth the fore- named statute of Westm̄ seconde whiche prohibiteth suche alienaciōs to be made.

Hitherunto I haue spoken of condi- cions in dede, now will I shew what be condicions in lawe that be annex- ed to any estates.

Knowe ye therfore, that if the of- fice of a parker, or steward, or suche lyke office be graunted to a man for terme of his lyfe, though there be no cōdicion at al inccionēd in the graūt, yet the lawe speaketh a condicion in this case, whiche is that yf the par-
tye

Of lyuery of season Fol. 29.

tye to whome suche offyce is gyuen
shall not execute all poyntes apper-
teynynge vnto hys office accordyng-
ly, it shalbe lawfull for the graūtour
to entre and dyscharge hym of hys
offyce and thys condicion is called a
condicion in lawe.

Of lyuery of season, and
of atturnement.

In al feffemētes, giftes in tayle lee-
ses for terme of lyfe, or for terme
of an others lyfe of landes or tene-
mentes, there can be no alteration or
transmutacion of possession by the
aunciente lawes of thys realme, on
lesse there be a certayne cerimonye
adhibited and solempnised in the pre-
sence and syght of neyghbours or o-
thers, whych cerimony is called lue-
rye of season.

And

and of attournement.

And ye shal vnderstand, that this ceremonye of lyuerpe of season is done, whan the lessoure, donour, lessoure or theyr deputy come wpyth the neighboures solemply to the landes or tenementes, and there put the fesse donee or lessee in possession of the said landes or tenementes by deliue- ring vnto him a clod of earth, or the ring of the doze, or some other thyng in the name of season, & for this self cause this ceremonye of lawe is called lyuerpe of season, that is to witt a tradicion or gpyng of season.

But this ceremony is not requi- red in lessees for terme of yeares, or in leeses at wpyll, in as moche as the lessoure in suche case remaineth styll seased, and the lessee hath onely the possession wpythout the seasing and the termes of the lawe be, that

Of livery of seison. Fol. 3.
that such a man is possessed, where
as in feffementes, giftes in talle, and
leeses for lyfe, he is called seased.

Wherfore yf a feffemente or lees
for life be made of lādes or tenemētis
and before that the livery of seisine
be made the feffoure dyeth, the heyr
of the feffoure shall haue the landes
per summum ius, & is to say by the ri
goure of the lawe, notwithstanding
that the feffee hath payde to the fef
four the price of the land, & although
the feffee be in possession. But other
wise it is of a lese for terme of yeres.

A lyke ceremonie is vsed whan
rente charges, whan rente seruyces,
and suche other thynges as passe by
wey of graunt, be graunted, for it is
no full and perfyte graunt tyll it be
conspyguate as it were wyth the cere
monie of atturnement.

This

and of attournement:

This attournement is nothyng
elles, but whan the tennaunte of the
land of which the reuerſion is graū-
ted, or out of whyche a rente is graū-
ted, do make ſome euident ſignifica-
tion and token that he accepteth the
perſone to whom the graūt is made
to be in the ſame reſpecte vnto hym
that the grauntoure was. As for an
exemple if the tennaunte of the lande
after he haue herde of the graunt cō-
meth to the grauntee, that is to wyt,
to the perſone to whom the graunte
was made, and ſaye in thys wyſe, or
in lyke effecte.

I agree me to the graunte made
vnto you by ſuche a man, or I am
well a payde and contented of the
graunt that ſuche a man hath made
vnto you. But the moſte vſuall and
frequent forme of attournement is to
ſay

Of lyuery of lease and
saye: **Sy?** I atturue vnto you by
force of the said graunt, or I become
your tenaunt, or to deliuer vnto the
grauntee a peny or a halfe peny by
waie of atturment.

Vf a man maketh fyrst one graunt
to one persone, and after an other to
ane other persone, that graunte shal
stande to whiche the tenaunte wyl
atturue, althoughe it be the latter.

And ye shal note, that if a man be
seased of a Manoure whiche is per-
cell in demene, and percell in seruice,
and doth aliene the same Manoure
to an other, onlesse the tenauntes of
the Manoure do atturue, the serui-
ces shal not passe only tenauntes at
wyl excepted for it nedethe not to
cause them to atturue.

Note furthermoze that there is a
greate difference bytwene giuyng a
pe-

and of atturniment.

penye in name of seasin, and gyuyng it by waye of atturnement, for whan it is gyuen of the tenaunt to þ graūtee in name of seasin, it dothe not on-ly implie an atturnement, but also it gyueth him suche a seasin, that if the rente afterwarde be behinde and not payd, he may now vppon þ seasin of the peny, after a lawfull distress and after rescus made, brynge an assyse of nouel disseisin, where as if it were gyuen only by waye of atturnement he coulde not brynge the assyse, but hys wytt of rescus onely.

Also ye shall vnderstande, that wher landes be deuisable by testamente by the custome of any auncyent borough or cyty, yf there the reuerstion of any landes be by testament beque- thed to a man in fee, and testatour which we call the dyuysour dyeth þ
deuysor

deuifed, that is to wytte, he to whom
the deuife was made hath forthwth p
reuerfion in hym wythout further ce
remonye of atturnement. Likewyfe
it is if a inan by testament dothe be
queth a rent charge that he is lealed
of, or a rēt feruice, there nedethe none
atturnement at all.

¶ If two ioyntenauntes be of land
and the lord graunteh the feruices
to an other, if one of p ioyntenauntes
atturneth it is ynoughe. Finally, if a
leafe be made for terme of lyfe, the re
mayndre to an other in taylor, the re
mayndre ouer to the ryght heyres of
the tenaūt for terme of lyfe, if in this
case the tenaūt for terme of lyfe wyll
graunte hys remayndre in fee to an
other by hys dede, thys remayndre
paffeth forthwyth without any attur
nement, for if any atturnement were

fol. 10. Of seruices: 10
requisite, it shulde be made of the te-
nant for terme of life, whyche in this
case is the grauntour hym selfe. And
in bayne it is that the grauntoure
shulde be enforced to atturue, sith an
atturuement is adhibited to none o-
ther purpose than to haue the confes-
and agremente of the particular te-
naunte, to the intent that it may ap-
pere, that he hath notice or knowlege
of this graunte, but here where as the
particular tenaunte hymselfe is the
grauntour, an atturuement were su-
perfluous, and more than neded.

Of seruices. 10
Hetherunto I haue brefely tou-
ched and ouerrun the sundrye
kyndes and formes of estates. Now
forasmoch as there is no tenure, but
hath vnto it some seruite knyght and
annered, it were very necessary to de-
clare

clare howe many kyndes of seruices there be, and what seruyce is due to euery tenure. For the knowledge herofe shal vnderstande, that the principall and moste common kynde of seruyce that the tenaunt oweth to hys lordc, is called knyghtes seruyce.

Knyghtes seruice.

Knyghtes seruice includeth homage, fealeie and for moste parte escuage, and whosoener holdeth his lādes by knyghtes seruice, is bound by the law of this realme to do vnto his lordc homage and fealtie, and to paye for most parte escuage, when it shal be assesse by authoritie of parliamente as hereafter more playnlye shalbe declared vnto you.

Homage is the most hūble and reuerent seruice that a man of free condition can do, for whan the tenaunte

Knyghtes seruice.

Shall do homage to his lord, the lord
shal sytte, and the tenaunt shal knele
befoze hym vpon bothe knees, and
shal holde his handes bitwene hys
lordes handes, and saye in this wise,
I become your man from this daye
fozthward of life and of membre and
of earthly honoure, and to you shall
be faythfull and loyall, and faith to
you shall beare for the landes that I
clayme to holde of you, sauyng the
faythe that I beare vnto oure soue-
raigne lord the kynge, and than the
lord so syttinge shal kysse him. But
if an ecclesiasticall persone whych by
hys orde and profession hath addic-
ted himselfe to the seruice of god in
especiall shall do homage to his lord
he shall not say: I become your man
bycause he hath professed himselfe to
be the onely man of god: but shal say
I do

Knyghtes seruice. Fol. 34.

I do to you homage, and shall be to you faythfull and true, and fayth to you shall beare for the tenementes þat I holde of you, sauynge the faythe whyche I do owe to our soueraygne lord the kynge.

Ye shall note also, that when a woman not married doth homage to her lord, she shall not say: I become your woman, for it is not conuenient that a woman shulde be the woman of any other than of her husbände that she shall mary, but she shall saye euen as the ecclesiasticall persone sayeth: I do vnto you homage. &c.

That yf perchaunce a man holdeth sundry landes and tenementes of sundrye lordes, and euery of them by knyghtes seruice, than in the ende of his homage makinge, he shall say, sauynge the fayth that I owe to our

I. iij.

souere-

Knyghtes seruice. Fol. 37.
Soueraygne lord the kynge, and to
myne other lordes.

And it is to be knowen, that none
is bounde to do homage to the lord,
onles it be suche a ternaunte as hath
in the ternauncye an estate of fee sim-
ple, or fee taylor, eyther in hys owne
ryght, or in the ryght of an other.

For if a woman haue landes or te-
nementes in fee simple or fee taylor,
whiche she holdethe of her lord by
knyghtes seruice, and taketh an hus-
bande and haue issue, in this case the
husbande in the lyfe of his wyfe shal
do the homage, bycause he hath a ti-
tle to haue the landes by the curtesy
of Englande yf he ouerlyueth her, &
also he holdeth them now in his wi-
ues ryghte, yet before issue had by-
twene them, y^e homage shal be made
in theyr both names. But if the wo-
man

Knyghtes seruice. Fol. 35.

man dieth befoze any homage made
by her husbände in her lyfe, and the
husbände kepeth styll the landes as
tenaunt by the curtesye, now he shall
not do homage to hys lord bycause
he hath nowe an estate but for terme
of lyfe.

Fealtie is as moche to saye as a
fidelittie or faythefulnes, in doyng
wherof the tenaunte shall holde hys
hand vpon a boke, & say thus, Heare
you this my lord, I to you shall be
faythfull and true, and fayth to you
shall beare for the landes and tene-
mentes whiche I clayme to holde of
you, and duelye shall do you the cus-
tomes and seruices whiche I owe to
do you at the termes assigned, as me
helpethe god and hys sayntes. And
than he shall kysse the boke, but he
shall not knele as he doth homage.

I. iiii.

And

221 101 Knyghtes seruice.

And ye shal obserue that homage can not be done but to the lord hym self, where as y^e steward of the lordes courte or the bailife may take fealtie for the lord. Also tenaunte for terme of life shal do fealte, but homage (as is sayde) he can not do.

Nowe as concernynge escuage that is to saye, the seruice of the child ye shal vnderstand, that he that holdeth his lādes by escuage, whan the kynge makethe a viage royall in to Scotlande for the subduynge of the Scottes, is bounde to be wythe the Kinges Maiestye by the space of .xl. Dayes well and conuenientlye arrayed and appointed for the warre. And he that holdeth his lande but by the moitie of the fee of knyghtes seruice, is bounde by the force of his tenure to be wyth the kynge by the space of .xx.

Knyghtes seruice. Fol. 36.

xx. dayes, and so proportionably accordyng to the rate and quantitie of hys tenure.

But now to our institute and purpose, after thys viage royall in to Scotlande (in whych the kynge goeth in person) and after the retyring in to Englande agayne, a parliamente is wont to be sommoned, in whych he shal be prescribed & assessed what euery persone that helde hys lande by homage and went not wyth the king neither by hymselfe, nor by his deputy, shall paye to hys lord in satisfaction of his not seruyng, and accordyng to the taxacion herof, euery tenant shall paye to hys immediate lord, whether it be the kyng or other after the rate and porcion of hys tenure, if he holdeth by an hoole fee, he shall paye the hoole escuage, if by a

f. v.

mo

201
Knyghtes seruice,
moitie, the halfe, yf by the fourth pte
of a fee, the fourth parte. &c. and this
money thus alleysed, is called scu-
tage or escuage, for whyche the lord
to whome it is due, maye verpe well
for the non paymēt therof distreyn.

But here it is to be noted, & some
tenaūtes by custom vsed tyme out of
mynde are bound to pay but the moi-
tie, or the thyrde parte of that which
shall be alleysed and limited by acte
of parliament.

Yea, and the custome is in some
place, that to what somme of money
so euer escuage is alleysed, & tenaūts
shall paye neuer but such a certeyne
somme of mony, and this escuage is
called escuage certeyne, where as the
other is called escuage vncertayne.

Finally ye shall vnderstande, that
escuage vncertayne is alwayes adiu-
ged

Of warde mariage

ged to be knyghtes seruice, and draweth vnto it warde, mariage, a reliefe, but escuage certaine is no knyghtes seruice but is of the tenure of socage as shall be herafter moze amplye shewed.

Of warde mariage and reliefe.

Every knyghtes seruice draweth vnto it, warde, mariage, and reliefe. Wherfoze it is now ryght expedient somewhat to entrete of them.

Ye shall therfoze be admonished, that whan the tenaunte whych hol- deth hys lande by knyghtes seruyce dyeth, his heyre male beyng at that tyme wthin thage of .xxj. yeares, the lord shall haue the warde, that is to saye, the custodye or keppnge of the landes so holden of hym to hys owne vse and profyte, tyl the heyre cometh to the full age of .xxj. yeares. For the
lawe

and reliefe.

law here presumeth that tyl he come to this age, he is not able to do such seruice, as is of this tenure requyred. Furthermoze yf such heyze be vnmarried at the tyme of the deathe of the tenaunte, than the lord shal haue also the warde and bestowynge of the maryage of hym.

But yf tenaunt by knyghtes seruice dyeth, hys heyze female being of thage of .xiiii. yeres or aboue, thā the lord shal haue the ward neyther of þe lande ne yet of the bodye of suche an heir, and the reason herof is bycause a woman of that age maye haue a husbande hable to do knyghtes seruice, that is to saye, to wayte vpon the kyniges maiesties persone whan he auaunceth into Scotlande wyth hys arme royall.

But if suche an heyze femalle be
within

Of wardemariage

within the age of. xliii. yeres and not
marryed at the tyme of the deathe of
her auncestoure, than the lord shall
haue the warde of the lande holden
of hym, tyll suche heyze female com-
meth to the age of. xvi. yeres, by force
of an acte of parliamēt in the statute
of Westm the fyfthe.

Note that there is a great diuer-
sitie in the lawe bytwene the ages of
females and of males, for the female
hath these manye ages apoynted by
the lawe. Fyrfte, at. vii. yeares of age
the lord her father maye distreyn
his tenauntes for ayde to marry her.
Seconde, at. ix. yeares of age, she is
dowable. Thyrde, at. xii. yers she is
hable to assent to matrimonye.
Fourthly, at. xliii. yeares she is able
to haue her lande, and shall be oute
of warde if she be of thys age at the
death

and reliefe.

Death of her auncestoure.
Fyftly, at.xvi.peres she shalbe out
of warde, though at the death of her
auncestour she was wythin the age of
.xiii.peres. Syrtely, at.xxi.peres she
is hable to make alienacions of her
landes oz tencimentes. Where as the
man hathe but two ages, the one at
xiii.yeares to haue hys lande holde
in focage, and to assent to matrimo-
nye, the other at.xxi.to make aliena-
cions.

Ye shal vnderstande that by the
statute of Merton, the sixthe chapi-
ter, it is enacted that if in case the tor-
des do marye theyre warde to vyl-
laines oz others, where is a disparge-
ment, yf such heyre so married bewith
in the age of.xiii.yeares oz of suche
age that the sayde warde can not con-
sent to the marriage. Then if the fren-
des

Of warde mariage. Fol. 39.

Des of thys heyre complayne or fele themselves greued with this vnnete mariage, the nexte of kynde to the heire vnto whome the heritage can not descende may entre in to the landes, and put out the gardeyne in the ualrpe, and yf the nexte kynnesman wyl not thus do, an other kynnesman of the infraunte maye do it, and shall take the issues & profytes to the vse of the heyre, and shal yelde accōptes therof vnto hym whan he commethe to hys full age.

But there be diuerse other dyspargementes whyche be not expresed in the sayd statute, as if the heire beyng within age of consente and in warde be maried to a creple, as to one that hathe but one fote or one hande, or that is a disforme creature, or haupnge anye horryble disease

and reliefe.

ease or continuall infirmitie. All these and suche lyke be dispargementes. But here also ye shal vnderstande, that it shal be sayd no dispargement, onlesse the heyre be so maryed when he is wythin the age of discretion, that is to say, within the age of. xiii. yeres. For if he be of that age or aboue and consenteth to such marriage, it is no dispargement, neyther shal the lord for suche marriage lose his warde, bycause it shal be reputed and assigned to the folpe of the heire beyng of age of discretion to consēt to suche marriage.

Now, yf the gardeyne offre to the heyre beyng in his warde a conuenient marriage wythout dispargement, and the heyre refuseth it, as he maye very wel do, than þe lord shal haue þe value of the marriage of suche heyre, whan

Of warde mariage, Fol. 40.

Whan he commeth to hys full age.
But yet yf he marye hymselfe being
so in warde agaynste the wyll of hys
gardeyne, than he shal paye the dou-
ble value by force of the statute of
Merton befoze remembred.

And ye shall note that if landes
holden by knyghtes seruice descende
to an infaute from hys mother, oz
from any of hys auncestours, his fa-
ther beyng yet alpye, in thys case the
lozde shall not haue the mariage of
this heyre, for duringe the lyfe of the
father, the sonne shall be in warde to
no man.

Finally, it is to be knowne, that
he whyche is gardeyne in cheualrye
in ryght, maye after he hathe sealed
the warde, graunte the same eyther
by dede oz wythout dede to an other
man & than he to whom suche graūt

and reliefe:

is made is called gardeyne in fapte.

Now as touching reliefe, ye shal knowe, that yf a man holdethe hys lande by knyghtes seruice and dyeth hys heyre beyng of full age (the full age of y male is .xxi. yeares, of the female .xiiii.) then y lord of whome the land is holden shal haue of the heyre reliefe.

Reliefe of a hole knyghtes fee is. **£** s. 4 of halfe a knyghtes fee fyfthe. s.

Also a man maye holde landes of a lord by two knyghtes fees, and thā the heyre beyng of full age at the death of his auncestoure, shal paye to his lord for reliefe. x. poundes.

Service of castel garder.

Ye shal vnderstande that a man may holde by knyghtes seruice and yet not hold by escuage, nor shal paye no escuage, for he may holde by
castell

Service of castel garder. Fol. 41.
castell garder, that is to saye, by ser-
uice to kepe a tower of hys lordes
castell, or some other place, by a rea-
sonable warnynge, whan hys lord
heareth that enemyes wyll come or
be altedy come into Englande.

Thys seruyce is also knyghtes ser-
uice, and drawethe to it warde mari-
age & reliefe, as the common knygh-
tes seruyce dothe.

Of graunde sergeauntie.

THere is also an other kynde of
knyghtes seruice, called grande
sergeantye, whyche is where a man
holdeth his landes or tenementes of
the kynge by suche seruice as he ow-
eth in proper person to do, as to bear
the baner of oure soueraigne lord
the kynge, or his spere, or to conduct
hys hoste, or to be his marshall, or to
be the sewar, caruar, or butler at the
feaste

Of grande

feaste of the coronation, or to be one of the chamberlaynes of the receypt of his eschequere, or to do lyke seruices to þe kyng in propre persone, such maner of seruyce **I** sape, is called grande sergeantye, that is to sape a greate or hygh seruice, and the cause why it is so called, is bicause it is the moste honorable and moste worthye seruice that is, for he that holdeth by escuage is not appoynted by hys tenure to do anye other moze specyall seruice than an other is bounde that holdethe by escuage, but he that holdeth by grande sergeantye, is bound to do some speciall seruice to þe king.

Also if he that holdeth of the king by grante sergeanty dyeth, his heire beyng of ful age, than the heire shal paye to the kynge for reliefe, not onelye. C.s. as he that holdethe by escuage

age shall do, but mozeouer the clere
yearly value of those landes and te-
nementes whych he so holdeth of the
 kynge by grande sergeantie.

Furthermoze ye shal obserue that
 in the marches of **S**cotlande some
 men holde of the kynge by cornage,
 that is to say, by blowing of an horn
 to the intent to warne the men of the
 contrey whan they heare that the
 Scottes oz other theyr enemyes be
 commynge, oz be alredye entred in to
 Englande, whych seruice is also a
 kynde of grande sergeantie.

Grande sergeantie therfoze is as
 moche to saye in latyn, as magnum
seruitium, that is to saye, a greate
 oz hyghe seruice, lyke as petite serge-
 antye is called paruum seruitium, &
 is to saye, a lytle oz smale seruice.

But to reuerte agayne to the ma-

Petite sergeantie.

matter ye shall note yf any tennaunte holdeth of any other lord than of the king by such seruice of cornage, then it is no graunde sergeantie, but yet neuertheles it is knyghtes seruice, & draweth to it ward mariage and reliefe, for this is a rule infallible that none can holde by grande sergeantie but of the kynges owne maiestie.

Finallye ye shall vnderstande, that al they whych holde of the king by thys seruice called graunde sergeantie do holde of the kyng by knyghtes seruyce, and by vertue of thys tenure the kyng shall haue of them ward mariage and reliefe, but escuage yet he shall not haue of them oneles they holde by escuage of him by expresse and speciall wordes.

**Petite ser-
geantie.**

Te

Tenaunte by petite sergeantie
 is he þ̄ holdeth his land imme-
 diatly of oure soueraygne lord the
 kynge by thys maner of scrvice, to
 paye to the kynge yeaerlye eyther a
bowe, a spere, a dagger, a swerde, a
payre of gantlettes, a paire of spores
of golde, a haffe or such other smale
thynges apperteynyng to the warre,
 & this seruice is in effect but sorage,
 bycause that suche a tenaunte is not
 bounde by hys tenure to go ne do a-
 ny thing in his owne propre person
 touchyng the warre, but only to ten-
 dre and pay yerely certayne thynges
 to the kynge, as a man ought to pay
 a rente wherfore thys seruice of pe-
 tite sergeantie is no knyghtes ser-
 uyce, but yet ye shal note, that a man
 can not holde neyther by petite ser-
 geantie neyther by graunde ser-

Homage.

geantye, but of the kynge onelye.

Homage auncestrell.

TEnaunt by homage auncestrell is he whych holdeth his lande of his lord by homage, and bothe he and his auncestours whose heyre he is haue holden the same lande of the saide lord & of his auncestours tyme out of mynde by homage, and haue done vnto them homage, and this is called homage auncestrell, by reason of the longe continuaunce whych hath bene by title of prescription as well concernynge the tenauncye in the bloude of the tenaunte, as concernynge the lordeshyp in the blode of the lord. And this seruite of homage auncestrell drawethe vnto it warranthe (that is to saye) of the lord which is now in lyfe hath ones receyued the homage of his tenant, he oughte to

auncestell. Fol. 44.

to warrant the same tenaunte, what tyme so euer he shal be impleaded or sued for such lande so holden of him by homage auncestell.

Moreover suche service of homage auncestell draweth to it acquittal (that is to saye) the lord oughte to acquyte the tenaunt agaynste all other lordes þe can demaund any manner of service out of the tenaunce.

Wherefore yf in thys case the tenaunte whiche holdethe by homage auncestell be impleaded of hys landes, and voucheth his lord to warrantye, who comnieth in by processe and demaundethe of the tenaunte what he hath to bynde hym to the warrantye, and the tenaunt sheweth howe he and his auncestours, whose heyre he is, haue holden his lande of hym and of his auncestoures tyme

G. v. oute

Homage auncestrell.

out of mynde, surely the lord p^r he
can not denye this, and if he hath re-
ceiued the homage of such a tenaūt,
is bounde by the lawe to warrante
hym his lande, so that if the tenaunt
lose his lande in defaute of the lord
thus vouched (that is to saye) called
to warrantye, he shal recouer against
hym so moche in value of those lan-
des and tenementes whych the lord
had at the tyme of callinge to war-
rantye o^r at any tyme after. But p^r
the lord neuer receyued the homage
of hys tenante, than he maye verpe
well whan he is thus vouched dis-
claime in the lordeshyp o^r seignorie,
and so put out the tenaunte of hys
warrantye. Where ye shal note, that
in euery case where the lord disclaim
in his seignorie in courte of reco^rde,
his seignorie o^r lordeshyp is extinct,
and

and the tenaunte shall holde from
thensforthe of the nerte lord to him
that thus disclaymed.

Thus ye perceyue that homage
auncestell is not but where as is a
long cōtinuaūce, as well in the blode
of the tenaunte in respecte of hys te-
nauncye, as in the bloude of the lord
in respecte of his seignorye. Wher-
foze if the tenaunte doth ones aliene
hys landes to an other, although he
purchaseth the same agayne, yet he
shal not hold any longer by homage
auncestell bycause of thys disconti-
nuaunce, but shall holde it now by
the bulgare & accustomed homage.

Of socage.

Socage is properly, where the te-
nant is bound to come wyth his
sok (that is to saye) with his plough
to eare and sow parcell of the de-
mene

Of socage.

мене landes of hys lozde, which ser-
uyce in aũcient tyme was very com-
men & frequēte but nowe by the mu-
tuall consent bothe of the lozde and
of the tenant yt ys conuerted foꝛ the
moost parte in to a yerely rente. How
be it the name of socage abideth styll
woherfoze now al þ̄ is not knyghtes
seruice is caled by þ̄ name of socage.

So þ̄ yf a man holdeth by fealtie
onely, oꝛ by fealtie and homage foꝛ
all maner of seruyce, it is but socage
tenure foꝛ homage alone makith not
knyghtes seruice, yea yf a man hol-
deth by escuage certayne, as I haue
said here tofoze, he holdeth in effecte
but by socage.

Nowe where a man holdethe
hys landes by socage and dyeth, hys
heyr̄e beyng wythyn thage of.iiii.
yeres the loꝛd shal not haue þ̄ warde
but

but the next of kynne to the heyre to
whome the heritage can not descend
shall haue the wardeshyp as well of
the lande as of the heyre, tyll the heir
come to the age of. xiiij. yeares, and
suche gardeine is called gardeine in
socage, and shall rendre accomptes to
the heyre for the issues and profytes
that he hath receiued of the landes
durynge suche tyme, hys reasonable
costes and expēses deducted, so that
he shall not haue the wardeshyp to
his owne vse & profyte as gardeine
in cheualrye hath.

Finally ye shall vnderstande that
whan tenaunte in socage dyethe, the
lord shall haue reliefe, that is to say
the value of the rent that is yearlye
due vnto hym of the tenauncye be-
syde the perly rente: so that in effecte
after the death of his tenante he shall
haue

104
Francke almayne.

efjs haue of the heyze .ii. rentes, saue that
for the reliefe, he may distreyne forth
wyth, but for the accustomed rent he
can not distreyne tyl the vsuall daye
of payment be come.

Francke almayne.

TEnaunte in francke almayne,
that is to saye in free almayne is
where a byshop, deane, or any other
ecclesiasticall persone holdeth of his
lorde in pure and perpetuall almes,
and suche tenure began firste in olde
time after this maner. Whan a man
was seased in ancient time of certain
landes or tenementes in his demene
as of fee, & of the same tenementes
enfeoffed an abbot & his couent or a
pziour & his couent, or any other per
sone ecclesiastical, as a deane of a co-
lege mayster of an hos pitall, or suche
like to haue & to hold the same landes

to

to them and to theyꝝ successoures for
euer in pure and perpetuall almesse,
oꝛ in francke almes, in these two ca-
ses the tenementes shulde be holden
in franke almoyne.

By foꝛce of whyche tenure they
that holde in francke almoyne after
thys foꝛte be bounde of ryght befoꝛe
god to make oꝛisones and pꝛayers,
to celebꝛate masses and to do other
diuine seruices for þꝛ soules of their
graunters and lessers, and for the
soules of theyꝝ heires whych be dead
and for þꝛ prosperous estate of their
heꝛes that be nowe alꝛue. And by-
cause of ryghte they be bounde to
thys diuine seruice, they be dischar-
ged by the lawe to do any other pro-
phane oꝛ coꝛpoꝛall seruice, as fealtye
oꝛ suche other lyke.

But neuerthelesse if suche as hold
theyꝝ

Of socage.

they? tenementes in franke almopne do ompt and leaue vndone these deuine seruices wherūto they be bound befoze god, the lozde can not distrein them, ne yet compell them by any o-ther meanes by the course of the cō-mon lawe, but the onely remedy is to complayne of them to they? ordi-narpe, who of ryght ought to compel suche ecclesiasticall persones to do the deupne seruice due as afoze said.

But here ye shall note that yf a persone of a chy?che o? any other ec-clesiasticall persone holdethe of hys lozde by certeyne diuine seruice to be done, as to synge masse euery fry- daye in the weke, o? placebo and viri-ge, o? to fynde a p?est to synge masse o? to distribute in almes. ℥. pence to a hondzed men at suche daye: in all these cases, yf such diupne seruice be
vndone

bindone, the lord mape very wel dis-
trayn, bycause, the seruice is put here
in certayntye.

Now I sayde, that if in olde time
a man dyd infeoffe suche ecclesiasti-
call persone after such sozte, he shuld
holde hys lande in franke almoyne,
but at this day it is otherwise, for by
the reasone of a statute called, *Quia*
emptores terrarum, no man can all-
ene ne graunt landes or tenementes
in fee simple to holde of hym selfe, so
that nowe yf a man beyng sealed of
landes in fee simple graunteth the
same by licēce to an ecclesiastical per-
son in franke almoyne these wordes
franke almoyne be boyde, & the eccle-
siastical persone shal holde them im-
mediatlye of h^e lord of the feoffor by
the same seruyces h^e the feoffor helde,
so that no man can hold in franke al-
moyne

81 101 **Frank almoyne.**
moyne, but by force of a grante made
before the sayd statute, onely the kin-
ges maiesty excepted, for he is out of
the compasse of the statute.

Finally, ye shall note that where
as a man holdeth in frank almoyne,
his lord is bounde by the lawe to ac-
quite him of al maner of seruice that
any other lord can haue or demaund
out of the sayde landes.

That yf he dothe not acquyte him
but suffre him to be distreyned, than
he shall haue agaynst his lord a cer-
tayne wryt, called a wryt of meane,
and shall recouer agaynste hym hys
damages and costes of his sute.

Of burgage.
A Tenure in burgage, is where
an auncient brough is, of which
the kynge is lord, and they whiche
haue tenevmentes therein y same brough
holde

holde the same of the kyng, payenge
a certeyne yearly rent, whych tenure
in effecte is but locage tenure. Lyke-
wylse it is, where as any other lord
spirituall or tempoꝛal is lord of such
bꝛoughe.

Here ye shal note that for the most
parte suche auncient burghes haue
dyuers customes and vsages which
other townes haue not. For some
burghes haue a custome, that þe yon-
gest sonne shal inherite befoꝛe the el-
deste, whych custome is called com-
monlye bꝛoughe Englyshe.

Also in some burghes by the cu-
stome the woman shal haue for her
dower al the landes and tenementes
wherof her husbände was sealed as
any tyme durynge the couerture.

Moreover in some burghes a mā
may deuise his landes or tenementes

Of burgage.

by testamēt at the tyme of his death, and by force of suche deuyle or legacye, he to whome the bequeste was made, after the death of the testatour maye by force of thys auncient custome entre in to the landes so to him bequethed or deuised wythout anye lpyery of seasonē to him made or further ceremonye of lawe.

Opuers other customes in Englande there be contrary to the course of the common lawe, whychē if they be anye thyngē probable and maye stande wyth reason are good and effectuall, not withstandyngē they be agaynste the common lawe.

Of villenage or bonde seruice.

A Tenant in billenage is proper lye whan a villayne, that is to saye, a bondman holdeth of his lord, whose bondman he is, certayne landes

Des oꝝ tenementes, accoꝝdyng to the
custome of the Manoure oꝝ other-
wyse at the wyll of hys loꝝde, and to
do his loꝝde villayne seruice, as to
beare & to carpe þ̄ donge of his loꝝde
out of þ̄ citie oꝝ out of hys loꝝd's Ma-
noure, & to lay it vpon the demeane
landes of his loꝝde, oꝝ to do such like
seruyle & villayne seruice. Now be it
fre men in some places holde theyꝝ te-
nementes & lādes of their loꝝdes by
custome, by such soꝝte of seruice, and
theyꝝ tenure is called tenure in ville-
nage, & yet they themselves be no vil-
laines ne of seruyle condicion but fre
mē. Foꝝ the land holden in villenage
maketh not the tenant a villayn, but
contrary wyse a villayne may make
fre land to be villayne land vnto his
loꝝde. As if a villayn purchaseth lād
in fee simple oꝝ in fee taylor, the loꝝde

Of burgage.

of the villayne maye entre into the lande so purchased by hys bondman and put hym and his heyres out for ever, and this done, the lord if he wil maye lease the same lande to his villayne to holde of hym in villenage.

And here ye shall vnderstande, that seruitute or villenage, is the ordinance, not of the law of nature but of that law, which is called Ius gentium, by whyche a man is made subiecte (contrary to nature) vnto another mannes dominiō. For he that is a villayne or bondman, eyther he is so by title of prescription (that is to saye) he and hys auncestoures haue bene villaynes tyme out of minde, or elles he is a villayne by his owne confession in court of recoorde, so that all villaynes either they be bozne villaynes, or elles they be made so. They
be

be borne villaines when theyr father
 beynge a bonde man hymselfe beget-
 teth them in lawfull wedlocke, either
 of a fre woman or of a bond woman
 so that the father be bonde, the is-
 sue of him lawfully begotten muste
 nedes be bonde by the lawes of Eng-
 lande, hauynge no regarde to the cō-
 dition of the mother, where as in the
 ciuill lawe it is clene contrarie. For
 there *parrus sequitur ventrem* (that
 is to say) the seruitude or bondage of
 the mother maketh the chylde bonde
 and not of the father. Howe be it the
 bastarde sonne of a bondeman shall
 not be bonde, bycause a bastarde is,
nullius filius in the law, that is to say
 nomans sonne.

They be made byllaynes two
 wayes, eyther by theyr owne propre
 acte, as whan a free man beynge of
 full

Of villenage or
full age wyll come into a court of re-
corde, & there confesse hymselfe bond
to an other man.

O elles by the lawes of armes cal-
led, Ius gentium: as whan a man is
taken prysoner in warres, and is
compelled to serue and become the
thral and bondeman of hym that
toke hym: the lawe calleth suche per-
sone a villayne.

And ye shall note that byllaynes
be properly called in latyn serui, by-
cause that whā they be taken in war,
the captaynes be wonte not to kyll
them, but to sell them, and so to saue
theyr lyfes, so þ̄ they be called serui
a seruando, that is to say of sauyng.
They be also called Mancipia, a ma-
nu capiendo, bicause that they be ta-
ken by hand & poure of the enemies.

Now

Nowe as I sayde by the lawe of nature we are al bozne free, but after that by the lawe of Gentilitie seruitute inuaded the worlde, than ensued the benefyte of manumission. Manumission is de manu datio, that is to save a guyngge out of the hande or power. For so longe as a man is in bondage and seruitute, he is subiecte to the hande and power of an other, and whan he is manumissed he is made free & delyuered from the sayd power, so that a manumission is nothyngge elles than an enfranchisemēt that is to save, a wytpyngge testifieng that the lozde hath enfranchised his villayn & al his offsprynge and sequel.

Also yf the Lozde maketh to hys villayne an obligacion of a certeyne summe of money, or grauntethe to him by his dede an annuitie or year-

ly

32. 102 **bonde seruice.**

ly penson, or leaseth to hym by dede landes or tenementes for terme of yeres, any of these actes do imply an enfranchisement.

Lykewyse if the Lord maketh a feoffement to his villayne, and maketh vnto hym lyuery of seysin, thys also is an enfranchisement and secret manumissio. Briefely to speke, where so euer the lord compelleth his villayne by the course of the lawe to do that thyng that he myght otherwys eforce him to do or to suffre without the auctoritie and compulsion of the lawe, he doth by implication enfranchise his villayne, as if the lord wyl byng agaynst his villayne an action of det, an action of accompt, of covenant or of trespase, these and such lyke be in the eye of the lawe enfranchisements and manumissions, by cause

cause that the lord in all these cases may haue the effecte and purpose of his suite (that is to saye) the goodes, catels, and correctiō of his bondman without the compulsion of the lawe euen by his owne prope power and authoritie whiche he hath vpon hys villayne. But if the lord doth sue his villayne by an appeale of felonye, the villayne beyng lawfully endyted of the same befoze, this is no tacite manumission or infranchisemēte, for the lord though he haue power to beate his villaine and to spoyle him of his goodes, yet he can not by the lawe of this Realme put him to deathe.

Ye shall also vnderstande, that if a mannes villayne purchaseth land or acquyze and gette vnto him anye other thynge, the lord maye by and by entre, and lease the same in to hys owne

Of villenage.

owne handes. Wherfoze if the lord
wyl bypunge agaynst his villayne a
præcipe & reddat, by whiche he de-
maundeth agaynst his villayne any
landes or tenementes, this implieth
an enfranchisement, for asmoche as
he byndeth himselfe to the prescripte
and authoritie of the lawe, where as
he might vse his owne authoritie, by
entring and seasing the said landes.

Finally ye shal marke that some vil-
laynes be called villaynes in grosse,
and other some be called villaynes
regardat. In grosse be they of which
the lord is seuerally seased, and not
by reasone of any lordeshipp or ma-
ner, but they be called regardaunte
whiche do belonge to a Manoure, of
whiche the lord is seased, and the
sayd villaynes haue bene regardant
(that is to saye) expectant and atten-
dante

dant tyme out of mynde to the lozde
of the sayde Manour, in doing vnto
him suche seruices as to a villayne
appertayne.

Of rentes. 2.

For almoche as vpon euery tenure
there is commonly reserued one
rente or other: therefore I thynke it
good sumwhat to treat of rentes.
But ye must vnderstande that there
be sundry sortes of rentes. There is
one kynde of rente whiche is called
rent seruice. An other whiche is cal-
led rent charge, and the thyrde whiche
is named in frenche rente secke, that
is to saye in latyne redditus ficcus,
a dyne rente. Nowe rent seruice is so
called, bycause it is knyght to þe tenure,
and is as it were a seruice, wherby a
man holdeth his landes or tenemēt,
or at lest wey when the rente is vnse-
uerably

Of rentes.

uerably coupled and knyght wyth the
seruice, as for an example, where the
tenant holdeth his lande of the king
or of any other lord by fealtie and
by certayne rent, or by homage, feal-
tie and certayne rent, or by any other
sortes of seruices & by certayne rent,
this rent is called rente seruice. And
here ye shal note, that if this rent ser-
uice, be at any time when it ought to
be payed, behynde and vnpayde, the
lord of whom the land or tenement
is so holden, whether it be in fee sim-
ple, fee taile, for terme of life for yeres
or at wyll, may of comynon right en-
tre and distraine for the rent, though
there be no mencion at all, ne clause
of distresse put in the dede or lease. I
said befoze, that the nature of this rent
seruice is to be coupled and knyght to
the tenure. For where no tenure is,
there

there can be no rent service. And therfore, if at this day I be seised of landes in fee simple, and make a dede of feffement of the same to an other in fee simple, reseruing by the same dede a rente, thys can be called no rente service, bicause there can be now no tenure betwene the feffoure and the feffee. Otherwise it is of feffementes in fee simple, made befoze the statute of Westmester the thirde called *Quia emptores terrarū*. For befoze the making of þe statute, if a man had made a feoffement in fee simple, reseruyng to him a certayn rent, yea though it had bene wout dede, here had bene created a new tenure betwene the feffoure and the feffee, and the feffee shuld haue holdē of the feffoure, who by vertue of the same myght of common right haue distreyned for suche rent

Of rentes.

rent. But at this daye, by force of the sayde acte, there can be no such e holdyng or tenure created nor begonne, and consequently no rent seruice can be at this daye reserued vpon anye gyfte in fee simple, except it be in the kinges case, who being chiefe lord of all euer might and may giue landes to be holden of him. Thus ye se, that at this day, no subject can reserue any rente seruice vnto him, onles the reuerfio of the landes or teneimentes that he shall graunt, be styll in hym, as where he grauntethe them in fee taylor, or maketh but a lease for terme of lyfe or for certayne yeares or eylls at wil. For in al these cases the reuerfion of the fee simple remapneth styll in hym, and therfore if here be anye rent reserued, it is to be called a rent seruice, and is of common right dis-
crep

treynable, though there be no clause of distresse in the dede of fessement or lease.

But here ye wyl aske me, when in the case befoze remembred, a man at this daye gyueth cleane aweye the lande or tenement from himselfe in fee simple, so that there is no manner of reuerfion of the same remaynyng in him at all, and yet neuertheles reserueth vnto hym by hys dede a certaine rent: what maner rent this shal be called? I answer, if there be in the dede indented any clause of distresse put, that is, that if the rent be behind vnpayed, it shalbe lawfull for the feffoure to entre and to distreyn, it is called a rente charge, forasmuche as the lande is charged therwyth, but howe? of common right: no, but only by vertue and force of the wytyng.

I.i.

But

Of rentes.

But on the other syde, if there be no suche clause of distresse put in the indenture, thā the rent so reserved shal be called a rent secke.

Likewyse, if a man that is seised of certaine landes, wyl graunte eyther by indenture oꝛ by his dede polle that is to saye single and not indented, a yearly rent out of the same landes to an other, whether it be in fe simple, fe taylor, foꝛ terme of lyfe, foꝛ yeares, oꝛ at wyl, wyth clause of distresse, then this rent is called a rente charge and he to whom suche rente is graunted may foꝛ defaulte of payment therof, entre and distreine. But contrarely, if the graunte be made wythout any such clause of distresse, it is called rent secke that is to say a dry rent, bicause he can not come to it in case it be denied, by way of distresse in so moch that
if he

if he were neuer seyled of it, he is by the course of the common lawe without remedie. Otherwise it is of a rent charge, for here he to whō the graunt is made, whā the rent is behinde may chose whether he wyl sue a wyttē of annuittie againste the grauntour, or distreyne for the rent behynde, and re teine the distresse tyll tyme he be paid accordingly. But he cā not have both remedies to gither, but muste take him to the one, for if he ones recoucr by a wyttē of annuittie, then is the lande discharged. And if he sewe not his wyttē of annuittie, but distrayne for the arreragies, and the teneurte seweth a repleuin, wherupon ſ other auoweth the taking of the distresse in court of recorde: then is the land charged and the person of the grauntour discharged of the action of annuittie.

Of rentes.

Ye shal also vnderstand, that if a mā
wyl, that an other shall haue a rent
charge cōmpng out of his laude, and
yet wyl not that his person shuld be
by any meanes charged by wytte of
ānuitie, he may thā haue such clause
in þe ende of his dede, Prouiso q̄ præ
sens scriptum, nec quicq̄ in eo contē
tum ullo pacto se extendat ad onerā
dam personam meam per breue seu
actionem de annuitate, sed tantūmo
do ualeat ad onerandum, terras, fū
dos, & tenementa mea de annuo red
ditu prædicto, If thys or suchelyke
clause be added, then the land is char
ged and the person of the grauntour
is discharged.

Also if a man wyl make a dede of
graunte in this wise, that if John at
Stylye be not yearly payd at the feast
of

of Chyristmas for terme of his life. xx.
Shillinges sterlyng, that then it shall
be lawfull for the sayd Jhon at Style
to distreyn for it in the Manoure of
Dale: this is a good rent charge, by-
cause the Manoure is charged with
the rent by wey of distresse, and yet ne-
uerthelesse in this case the persone of
him that made such dede is dischar-
ged of any action of annuities, foras-
much as he graunted not by his dede
any annuities to þe sayd Jhon at Style
but onely graunted, that he might dis-
treyn for suche yearly rent.

Furthermoze ye shall note, that if
a man hath a rent charge to him and
to his heires comyng out of certeyne
landes, and doth purchase any parcel
of this land to him and to his heires,
in this case the hole rent charge is
quenched and gone, and the annuities

Of rentes.

also, the cause is this, þ a rent charge
 can not be in suche case appoꝛtioned.
 Otherwise it is of a rent service, foꝛ if
 one whiche hath a rent service as foꝛ
 exemple, xx d. by yeare doth purchase
 parcel of the lande out of which this
 yearly rent of, xx d. is comynge, this
 shal not extinguishe ne dꝛowne þ hole
 rent, but foꝛ that parcell only. Foꝛ rēt
 service in suche case may very wel be
 appoꝛtionate and rated accordyng to
 the value of the lande. Yet there be
 sonie soꝛtes of rentes seruices which
 in no wyse can be appoꝛtioned. As
 where a tenaunt holdeth his lande of
 his loꝛde by the service to rēde to his
 loꝛde yearly at suche a feast, an hoꝛse,
 a ring of gold, a redde rose, a gylouer
 & suche lyke, if in this case the loꝛde
 doth purchase parcell of þ land thus
 of him holden, this service is gone, bi
 cause

cause such seruice can not be severed ne appozcioned. Also escuage is a seruice that may very well be appozcioned accordinge to the asseraunce and rate of the lande.

But where any lande is holden by homage and fealtie, if the lord purchaseth parcel of the land, yet he shal haue hys homage and fealtie styll of his tenaunte.

Ye shall marke also, that if a man maketh a lease of landes to an other for terme of lyfe, reseruing to him certayne rent: if in this case he graunteth the rent to John at Style sauing to himselfe the reuersion of the said land, thys rente is but rente secke bycause John at Style hath the rent, hath nothing in the reuersion of the land. But if he graunteth the reuersion of the lande to John at Stoke for terme

J. iiii. of

Of rentes.

of lyfe and the tenaunt atturneth accordingly, then hath John at Roke the rente as rente seruice bycause he hath y^e reuerſion for terme of his life.

Lykewiſe it is, if a man giueth landes or tenementes in taile, reſeruing to him & to his heires certayne rente; or maketh a leaſe of y^e land for terme of life, reſeruinge certayne rent, if he graunteth the reuerſion to an other and the tenaunt atturneth accordingly, the hole rent and ſeruice ſhal paſſe by this worde reuerſion, bicauſe the rent and ſeruice in ſuche caſe be incident to the reuerſion and do paſſe by the graunt of the reuerſion. But if he had graunted the rent only: the reuerſion had not paſſed.

¶ What remedy a man hath to recouer his rent when it is behynde.

I ſhewed

I Shewed you befoze, that for a ret service if it be behynde, ye may distrayne in the grounde euen of common ryght though there be no suche clause of distresse mécioned in y^e dede of feoffement, graūt oꝛ lease. Also for a rent charge ye maye distreyn oꝛ byyng your wytt of annuities at your choise and election, as befoze is declared. But of a rent secke if ye were neuer seised of it noꝛ of any parcel thereof, ye be without remedy by course of the comō law, for ye can not distreyn for it, noꝛ yet byyng your wytt of annuities, but if ye were ones seised of it oꝛ of parcel thereof and it is estones behinde, then youre remedie shall be this. Ye must go either by your selfe oꝛ by your deputye to the lande oꝛ tenement out of which the rent is comynng, and there demaunde the arre-

ragies of the rent, whiche if the tenat
denye to paye, this denyal is a dissei-
sin of the rent. Also if the tenaunt be
not then ready to pay it, this counter
waileth a denyal which is a disseisin.
Moreouer if neither the tenaunt nor
none other man be remainyng vpon
the ground to pay the rent, when ye
demaund the arreragies, this also is
a denyall in the lawe, and is in very
dede a disseisin. And of these disseisin
ye may haue an assise of nouell dissei-
sin against the tenaunt, and shal reco-
uer seisin of the rent and the arrera-
gies and your damagies and costes
of your wytte and of your plee. And
if after suche recovery and execution
had, the rente be agayne at an other
tyme denyed you, then ye may haue a
redisseisin and shal recover your dou-
ble dammagies. &c.

It

It shalbe therfoze good wisdom
foz a man when a rent is graūted by
any persone vnto him, to take of the
tenant of the land a peny oꝛ an halfe-
peny in name of seisin of the rent, and
then if at the next day of painment the
rent be denyed him, he may haue an
Assise of nouel disseisin.

And ye shall note, þ̄ there be thze
causes of disseisin of rent seruice, that
is to wete, rescouse, repleuin & inclo-
ser. Rescouse is, when the loꝛde vpon
the lande holden of him, distreyneth
foz his rent behynde, and the distresse
is rescued from him, oꝛ if þ̄ loꝛd come
vpon the land and wyl distreine, and
the tenant oꝛ any other man foz hym
wyl not suffre him, this is called Res-
couse.

Repleuin is, when the loꝛde hath
dis-

Of rentes.

Distreyned & repleuin is made of the distresse by wryt or by playnt. Encloser is when landes or tenementes be so inclosed that the lord can not come within the landes or tenementes for to distreyn. And the chiefe cause why suche thinges so made be disseising to the lord is for asmoch as the lord is by this wey disturbed of the mean and remedy wherby he ought to com and haue his rent, that is to wete, by distresse.

And there be iiij. causes of disseisin of a rent charge, þe is to wete, recusous, repleuin, encloser, and denyer. For denyer or denyal is aswell a disseisine of a rente charge, as it is of a rent secke.

Finally ye shal vnderstande, that there be two causes of disseisin of a rent secke, that is, denyall & encloser. And

And if semeth that there is yet an other cause of disseisin of all the threerentes aforesaid, that is to wete this, when the lord cometh to the lande holden of him, or when he that hath a rent charge or a rent seck cometh to the lande to distreyn for the rent behynd, and the tenant hearing this, encountreth him, and forstalleth him the weye wyth force and armes, and manaceth him in such sort as he dare not come to þe ground for to distreine for his rent behynd for feare of death or of mutilatiō of his membres: this is a disseisin bicause the partie is disturbed of his mean & lawfnl remedy wherby he ought to come to his rent.

Finally ye shall obserue & marke, that by an act of parliament made in the xxxij. yeare of oure soueraygne lord king Henry the eight, it is lawfull

Of rentes.

ful for the executours and administ-
ratoures of tenants in fe simple, te-
nantes in fe taylor and tenants for
terme of lyfe of rent seruices, rét char-
ges, rent seckes and of fee fermes, for
the arreragies of suche rétes as were
due vnto theyr testatoures in their
liues, either to distrayne for the same
or at their election to brynge an acti-
on of dette, sauyng in such lordshippes
in wales or in the marches therof,
where the tenauntes haue vsed tyme
out of mynde to pay vnto euery lord
at his fyrst entry into the lordshipp any
summe of money for the redemp-
tion of all maner duties and penal-
ties incurred at any tyme befoze their
lordes entry.

Also by force of the sayde acte the
husbande whiche was seised in the
right of hys wife may after the death
of

rentes & serues

Of rentes. ruel. Fol. 63

of his wyfe either distrayne or byng
an action of dette for the arrearages
of such rentes as were due & vnpayd
in her lyfe.

Likewise it is of him that hath a
rent for terme of an other mans lyfe,
if he for terme of whose lyfe he hath
the rent dyeth, yet by vertue of þe sayd
acte he or his executores and admi-
nistratoures may either distrayne or
byng an action of dette for the arre-
rages due befoze the deathe of hym
for terme of whose lyfe he had þe rent

How Auowries ought to be
made of rentes and seruises,
inacted. a. 21. Hen. 8.

Where any landes be holden of
any person by rentes, customs,
or seruises, if the lord distrayne vpon
the same landes for any such rentes,
customes

Of rentes.

ful for the executours and administratours of tenants in fe simple, tenants in fe taylor and tenants for terme of lyfe of rent seruices, ret charges, rent seckes and of fee fermes, for the arreragies of suche retes as were due vnto theyr testatours in their liues, either to distrayne for the same or at their election to brynge an action of dette, sauyng in such lordshippes in wales or in the marches therof, where the tenauntes haue vsed tyme out of mynde to pay vnto euery lord at his fyrst entry into the lordshipp any summe of money for the redemption of all maner duties and penalties incurred at any tyme befoze their lordes entry.

Also by force of the sayde acte the husbande whiche was seysed in the right of hys wife may after the death
of

rentes fines

Of rentes. rues. Fol. 63

of his wyfe either distrayne or bypnyng
an action of dette for the arrearages
of such rentes as were due & vnpayd
in her lyfe.

Likewise it is of him that hath a
rent for terme of an other mans lyfe,
if he for terme of whose lyfe he hath
the rent dyeth, yet by vertue of þe sayd
acte he or his executores and admi-
nistratoures may either distrayne or
bypnyng an action of dette for the arre-
rages due before the deathe of hym
for terme of whose lyfe he had þe rent

How Auowries ought to be
made of rentes and seruices,
inacted. a. 21. Hen. 8.

Where any landes be holden of
any person by rentes, customes,
or seruices, if the lord distrayne vpon
the same landes for any such rentes,
customes

Of rentes.

customes, and seruices, and repleuin
therof be sued, the lozde maye auowe
oꝝ his baylyffe oꝝ seruante may make
conisaunce oꝝ iustifie the taking vpon
the same lādes, as within his fee and
seignourye, aledging in the sayd auow
ry conysaunce oꝝ iustification the same
landes to be holden of hym, wythout
nampng any person certayne to be te
nante of the same, and wythout ma
king any auowrye, iustification, oꝝ co
nisaunce vpon any persone certayne.
And lykwyse vpon euery wytte su
ed of seconde deliuerance. And they
that make any such auowrye, iustifi
cation, oꝝ conisaunce, if y same abow
rye conysaunce oꝝ iustificatiō be found
foꝝ them, oꝝ the playntiffe be nonsute
oꝝ otherwise barred, then they shal re
couer their damages and costes. Al
so the said playntiffes & defendaunt
shall

shal haue lyke ples & lyke aide pray-
ers (ples of disclaymer onely excepte)
as they myghte haue had befoze the
makynge of this acte. Also suche per-
sons as by the comen lawe maye
ioyne to the playntiffe oꝝ defendane
in the said wyttes of replegiare oꝝ se-
conde delpueraunce, as well without
processe as by processe; shal from
hensforth also in this case ioyne vu-
to them as wel wythout processe as
by processe, and haue lyke ples
and lyke auauntages in all thinges
(disclaymer onely excepte) as they
myghte haue by the comen law befoze
thys acte.

CAn acte for assignees or graun-
tees of reuerfions to take a-
uantage of the condicions to be
performed by the fermours.

R. j.

made

made. a. 32. Hen. 8.

It is enacted that aswel al persons
 whych haue oꝛ shal haue any giste
 oꝛ graunt of the king by his letters
 patentes of any lordshyps landes te-
 nementes rentes personages tythes
 portions oꝛ other hereditamentes oꝛ
 of any reuersion of the same, whiche
 did belong to any monastery oꝛ other
 ecclesiasticall house dissolued or by a-
 ny other meanes come to the kynges
 handes sithens the .iiiij. day of februa-
 ry in the xxvii. yere of king Henry
 the eight, oꝛ whiche at any tyme her-
 tofore dyd belong to any other per-
 son & after came to the kynges han-
 des, As also al other persons beyng
 grauntees oꝛ assignes to the kyng oꝛ
 to any other persone and their heires
 executours successours and assignes
 shal haue lyke auantage againste
 the

the fermours their executors adm-
nistratours & assignes by entrie for
nor payment of the rent, or for doynge
of waste or other forfeiture, and also
shal haue the same auantage by ac-
tion only for not performynge of other
conditions couenantes or agrementes
conceyned in the indentures of their
leases or grauntes against the sayde
fermours and grauntees their exe-
cutors administratours & assignes,
as the sayd lessours or grauntours
themselves myghte haue had at any
tyme.

Provided, that this acte shal not
extende to hindre or charge any per-
sone for the breche of any couenante
or condition compysed in any suche
writings as is aforesayd, but for such
couenantes and condicions as shalbe
broken or not performed after y^e firste

Of tithes.

Day of September in the xxxij. yeare
of king Henry the viij. & not before.

¶ How tithes and other profytes
ecclesiastical shalbe recovered,
inacted. 5. 32. Hen. 8.

All persons shal truly pay their
tithes and offerings according
to the lawfull customes & vsages of
parishes & places where such tithes
or duties be due. And in case they wol
wilfully withhold them or any parcel of
them: the partie whether he be ecclesi-
astical or laye that shuld haue & shalde
tithes or offerings, may conuent the
persons so offending before the ordi-
nary his commissarie or other compe-
tente minstre or leasul iudge of the
place where such wrong shal be done
according to the ecclesiastical lawes.
And in euery such cause of suite the
same ordinary or leful iudge hauing
cha

the parties or their lawful procurators befoze him, shall by vertue of this acte procede to the determination therof ordinarily or summarily according to the course of the sayd lawes, and therupon shall giue sentence accordingly. And in case any of the parties for any matter concerning that suite, do appeale from the sentence & diffinitive iudgement of þe said iudge, then the same iudge forthwith vpon such appellation made, shall adiudge to the other partie þe reasonable costs of his suite, and shall compel the same partie appellant to pay the same by compulsory processe and censures of the sayde lawes ecclesiastical, taking suretie of the other partie to whom such costes shall be adiudged & paid, to restore the same to the partie appellant, if afterward, the principal cause
of

of that suite of appeale shal be adiudged against him. And so every iudge ecclesiasticall by vertue of this acte shal adiudge costes to the other partie vpon every appeale to be made in any sute or cause of subtraction or detention of any tithes or offeringes or in any other suite to be made concerning the dustie of such tithes or offerings. That if any persons after such sentēce diffinitive giue against them, shal obstinately refuse to pay their tithes or duties or such somes of monye so adiudged wherein they be condemned, then two Justices of p^e peace of the same shyre, wherof one to be of the quorum, shal vpon certificat or complaynt to them made in wytyng by the ecclesiastical iudge that gaue the sentēce, cause them to be attached and committed to the nexte Gaile, there

there to remaine without bayle or
mainprise, t^{pl} they shal haue founde
sufficient sureties to be bound by re-
cognisance or otherwise befoze y^e same
iustices to the kinges vse fo^r the per-
formance of the said iudgement.

It is provided, that no person shal be
sued or otherwise compelled to paye
any tithes fo^r any landes tenementes
or hereditametes which by the lawes
of this realme are discharged or not
chargeable with the payment of any
such tithes.

It is provided also that this acte shal
in no wise bynde the inhabitantes of
the citie of London and suburbes of
the same, fo^r to pay their tithes and
offerings within the same citie and
suburbes otherwise then they shuld
haue done befoze y^e making of this act.

And it is further enacted y^e where

any þe hath an inheritāce frehold terme
 oꝝ interest in any personage vicarage
 porcion pension tithes oblations oꝝ
 other ecclesiastical pꝛofyte whiche is
 oꝝ shalbe made tempoꝝal oꝝ admitted
 to be in tempoꝝal hādes by the lawes
 oꝝ statutes of this realm, shal fortune
 to be disseised oꝝ otherwise put from
 his lawfull inheritance possession occu-
 pation terme oꝝ interest in þe same by
 any other person clāming to haue in-
 terest therein: the person so disseised oꝝ
 wꝛongfully put from his sayde right
 oꝝ possessiō his heires, wife, and other
 to whom such wꝛōg shalbe done, may
 haue his remedye in the kinges tem-
 poꝝal courtes, as the case shal require
 foꝝ the recouery of þe same by wꝛittes
 original of prec. qꝛ reddat, ass. of no-
 uel disseison, moꝝtdanc, Quod ei de-
 forciat, wꝛittes of dower, oꝝ other
 wꝛittes

writtes original to be grated in þ chā-
cery of euery such psonage vicarage
porciō penston or other pzoft ecclesi-
astical accozding to þ nature of þ sute
therof. And þ writtes of couenant and
other writtes for fines to be leuied &
al other assuācies to be made of any
such personage or pzoft ecclesiasti-
cal shalbe hereafter deuised & graun-
ted there, lyke as hath bene vsed for
synes to be leuied and assurance to be
had of lādes or other hereditamētes,
and þ al iugemētes to be geuen vpon
any of þ sayd writtes original so to be
gratited for any þ pzemisses, & al fines
to be leuied & knowleged in any of þ
kings said courtes therof, shal be of
like force in þ law as iugemētes giue
& fines leuied of lād; tenement; & here-
ditamētes in þ same courts vpon writ-
tes original therfore duely pursued.

Of tithes.

¶ Provided alwayes, that this last act shal not extend to giue any remedy or suite in the courtes temporal against any persone which shal refuse to set out his tithes, or which shal withhold or refuse to pay his tithes or offeringes, but that in al such cases the partie as wel laye as ecclesiastical hauing cause to demaund the same, shal take and haue his remedy for the said tithes or offeringes in euery such case in the spiritual courtes according to the ordinance in the fyrst parte of this acte mencioned and not otherwise.

¶ Of mortuaries, enacted

ã. 21. Hen. 8.

NO person spiritual nor their fermers nor baylyffes shal call any person befoze any iudge spiritual for recoverye of any Mortuaries more then is hereafter mencioned vpon payne

Of Mortuaries. Fol. 70.

payne to forfet for every time so much
in value as they that take above the
somme limited in this acte and over
that cl. s. to þ partie greued, for which
he that haue an action of det by wret
byt of information, wherein no wager
of law effoyn nor protection shalbe al-
lowed. First no Mortuarie shalbe ta-
ken of any which at his death hath in-
mouable goodes vnder the value of
x. marke. Also no Mortuarie shalbe
taken but onely where Mortuaries
haue bene vsed to be payde, and there
after the forme hereafter mencioned.
Nor in no mo places but one, that is
to wete, there where his most abiding
is and there but one. Nor no persone
shal take for a Mortuarie of any per-
son being at his death of the value of
x. markes above his dettes paid and
vnder xxx li. above. vij s. iij d. And of
the

Of Mortuaries.

the value of xxx li. and vnder li. li. not
aboue vi s viii d. And of the value of
lx. li. or aboue to any summe what so
euer it be, not aboue x. s. **P**rouided
that no Mortuarie shal be asked nor
payd for any woman couert baron or
child or any person not keeping house
or for any wayfaring man, but **p** mor-
tuaries of such wayfaring men be an-
swerable in that place where they had
their most dwelling at **p** time of their
Death.

Prouided that any such spiritual
persō may take any thing which shal
be disposed or bequethed to him or to
the high aulter of the church. Also no
thing shal be taken for Mortuaries
in wailes nor the marches of **p** same,
nor in Calys or Berwyke or the mar-
ches of the same, but only in such pla-
ces of **p** same where mortuaries haue
bene

bene accustomed to be paid and there but onely after the forme above specified. Provided that the byshops of Bangour, Landaffe, saint Dawies & saint Asse & the archdeken of Chester may take such mortuaries of p prests within their diocises & iurisdiccions, as heretofore have bene accustomed. Provided also, that in such places where mortuaries have bene accustomed to be taken of lesse value, none shalbe compelled to paye any other mortuarie or more for any mortuarie then hath bene accustomed, nor no mortuarie there shalbe demaunded of any person exempt by this acte upon payne afoze lympted.

CAn acte for the assuraunce of fermoures, made. a. 32. Hen. 8.

Al leases heerafter to be made of any manours lades tenementes
or

or other hereditamentes by writing
 indented vnder seale for terme of yeres
 or for terme of life by any persons be-
 ing of full age of one and twenty yers
 hauing any state of inheritance either
 in the temple or in the chapel in their own
 right or in the right of their churches
 or wyues or jointly wth their wyues of
 any estate of inheritance made before or
 after the death of the said good & re-
 formal in the law against felonies
 their wyues heires and succellours
 according to such estate as is compry-
 sed in euery such indenture of lease.
 It is ordeined, that this acte shal not
 extend to any leases to be made of a-
 ny lādes tenementes or hereditamentes
 bring in the handes of any fermour
 by vertue of any olde lease, vntill the
 same olde lease be expired. surrendred
 or ended within one yere nexte after
 the

the making of the sayd new lease, noz
pet shal extende to any graunt to be
made of any reuerſion of any landes
tenementes oꝛ hereditamentes, noz to
any lease of any such landes tenemen
tes oꝛ hereditamentes as haue not
moſt commonly bene letten to ferme
oꝛ occupied by the fermours therof
by the ſpace of .xx. years nexte befoze
such lease therof made, noz to any leſe
to be made without impeachment of
waſte, noz to any lease to be made a
bove the numbre of xxi. yeares oꝛ thye
liues at the moſt from the day of ma
king therof. And ſo upon every ſuch
leale there be reſerved yearly during
the ſame lease dewe & payable to the
leſſours their heires and ſucceſſours
to whom the ſame landes ſhuld haue
come after the dethes of the leſſours
if no ſuch lease had bene therof made
and

Of fermours. 10

and to whom þe reuerſion therof ſhal
pertain according to their eſtates &
interreſtes, ſo moche yerly rent oꝝ moze,
as hath bene moſt accuſtomably yel-
den foꝝ the ſame within .xx. yeres next
before ſuch leaſes therof made, & that
euery perſon to whome the reuerſion
therof ſhal pertain after the deathes
of ſuch leſſours oꝝ their heires: ſhal
haue ſuch lyke remedy and auantage
to al ententes and purpoſes againſt
the fermours therof their executours
and aſſignes, as þe ſame leſſour ſhuld
oꝝ myght haue had.

Provided alſo that þe wyfe be made
partie to euery ſuch leaſe as ſhall be
made by her huſbande of any landes
being the inheritance of the wife, and
that euery ſuch leaſe be made by in-
denture in the name of the huſbande
& his wife, and ſhe to ſeale þe to ſame.

And

And that the rent be reserved to the husbande and to the wife and to the heires of þe wife accozdyng to her estate of inheritance in the same. And that the husbande shall in no wise aliene discharge graunt or giue away þe same rent reserved nor any parte thereof longer then during the coverture, without it be by syne leuyed by the sayde husband and wyfe.

Þe provided furthermoze that this acte extende not to giue any libertie or power to any persons to take any mo fermes leases or takings of any manours lādes tenementes or other hereditamentes, than they myghte lawfully haue done befoze þe making of this acte, nor yet extende to giue any libertie or power to any person or vicar of any church or vicarage for to make any lease or graunt of any their

L. i.

messuages

Of fermours.

messuages landes teneimentes tithes
pꝛoꝑtes oꝛ hereditamētes belonging
to their churches oꝛ vicaragies other
wise than they myght haue done be-
foze the making of this acte.

¶ An acte that fermoures shall
take auantage of condicions
and couenantes, against graū-
tees of reuerſions. *ā. 32. Hen 8.*

A fermours and grauntees of
lordships landes rentes perso-
nages tithes poꝛtiōs oꝛ any other he-
reditamentes foꝛ terme of yeares life
oꝛ liues their executours administra-
tours and assignes shal haue like ac-
tion and remedy against all persons
and bodyes polptike their heires suc-
cessours and assignes whiche haue oꝛ
shall haue any gift oꝛ graunte of the
king oꝛ of any other person of the re-
uer-

uerſion of the ſame lordſhips landes
tenementes and other hereditamētes
ſo letten oꝛ any parcel therof foꝛ any
condicion couenant oꝛ agreement con-
teyned in the indentures of their leaſe
as they might haue had againſt their
ſayd leſſours and grauntours their
heires oꝛ ſucceſſours, al benefytes &
aduantageſ of recoueries in value
by reaſon of any warranty in dede oꝛ
in law by vouchet oꝛ otherwiſe onely
excepted.

Provided that this acte ſhall not
extende to hinder oꝛ charge any per-
ſon foꝛ the breche of any couenant oꝛ
condition compriſed in any ſuch wri-
ting as is afoꝛelaid, but foꝛ ſuch co-
uenantes and condicions as ſhall be
bꝛoken oꝛ not perſourmed after the
ſyꝛſt day of Septembꝛe in the .xxxii.
yeate of this king and not befoꝛe.

Of fermours.

¶ Of falsifieng of recoveries by
fermers, inacted. 21. Hen. 8.

All fermers or lessees for terme of
yeares may hereafter falsifie for
their terme onely, recoverees had by
sayned titles as well as a tenant of
freehold might at the comen law, And
the same fermers or termers their exe-
cutours and assignes shal enjoy their
sayd termes according to their leases
agaynst suche recoveries such as yet
none such had be suffered. In whiche
case neuertheles the recoverer, after
such recovery had, shal haue lyke re-
medy agaynst the termers by auowry
or action of dette for rentes and serui-
ces reserued vpon the same lessees,
being deu afoze the same recoveries,
and lyke actions for waste done after
the same recoveries, as the lessours
myght haue had if no such recovery
had

voyd recoveries. Fol. 75.

had be had. Furthermoze no statute staple, statute marchant, noz executio by elegit shalbe herafter auoyded by any such fayned recovery, but like remedy shalbe had to auoyd and falsifie the said recoveries, as by the premisses is ordeined for the fermour or lessee for terme of yeares.

¶ An acte for auoiding of recoveries by collusion against tenātes for terme of lyfe. .ā. 32. Hē. 8.

Where diuerse persons being seased of landes teneimentes and hereditamētes, as tenātes by þ courtshp of Englande, or otherwise onely for terme of life or liues, haue heretofore suffred other persons by agrement or couēn betwene them had, to recouer the same against them in the kinges court, by reason whereof, those psons

L. iij. to

voyd recoveries.

to whome the reuerſion oꝛ remainder thereof hath belonged, haue after the deathes of þ̄ ſame particular tenants bene dꝛiuen to their actions foꝛ the recontinuance and obteyning of þ̄ ſaid landes and tenementes ſo recovered, to their greate & impoꝛtable charges and expenſes, and ſometime haue bene clerely diſherited of þ̄ ſame: it is therfoze inacted, that all ſuche recoveries hereafter to be had oꝛ pꝛoſecuted by agreement of the parties oꝛ by couin, againſt any ſuche particular tenant of any landes oꝛ hereditamentes, wherof þ̄ ſame particular tenant is oꝛ hereafter ſhal be leaſed, as tenāꝛ by þ̄ curtaſie of England, tenant in taile after poſſibilitie of iſſue extincte, oꝛ otherwiſe foꝛ terme of lyfe, ſhal from hence forth, as againſt ſuch perſons to whō the reuerſiō oꝛ remainder therof ſhal then

void recoveries.

Fol. 76.

then appertayn & ageinst their hetres
and successours, be clerely voyde and
of none effecte.

¶ Provided alway, that this act shal
not extend to any person þ̄ shal here-
after by good title recouer any heredi-
tamentes without frawde oꝛ coun a-
gainst any such particular tenant by
reasone of any foꝛmer right oꝛ title,
noꝛ to auoyd any recovery hereafter
to be had against any such particular
tenaunt by thassent and agrement of
those in the reuersion oꝛ remaynder,
so that the same assent and agrement
do appere of recoꝝd in þ̄ kinges court.

¶ Of discontinuance

It is called a discontinuāce by the
lawes of Englande, when he that
hath the possession of landes oꝛ tene-
mentes foꝛ the time pꝛesent & yet not
hauing the fe simple in himselfe noꝛ

L.iii=

in

Of discontinuance.

in his own right only maketh an alienation of the same lādes to an other person, by reaso wherof, he that shuld haue them after him, and which then hath right vnto them, can not entre into them, but is driuen to his remedy by wey of action, in such wise that the sayd landes be not vtterly shifted and gone fro such person or persons as haue right vnto them, but be also ly discontinued for a time, til the person which after the death of such discontinuer hath right vnto them, do recōtinue & bring them home againe not by entrepse but by sute and wey of action. As for exemple, if tenāt in taile of certaine landes doth infeffe an other in the same, in fe simple or fe taile and hath issue and dyeth, his issue can not entre into the landes, though he hath title and right vnto them, but is
put

put to his action, whiche is called a
formedone in the descendre. And if
such tenāt in taile which maketh such
a feoffement, hath no issue at tyme of
his death, it is yet neuerthelesse a dis-
continuance to him which is either in
the reuersion oz in the remaindye, so
that neither thone noz thother can en-
tre, but they be duien to their action
he in the reuersion to his formedone
in the reuertir, and he in the remain-
dye to his forindone in the remaindye.

In like maner if a bishop both ali-
ene landes which be parcel of his bi-
shoprich, and dyeth: this is a discon-
tinuance to his successour, forasmoch
as he can not entre, but is duien to
his wytt of entre sine assensu capituli.

Semblably, if a Deane be sole sei-
sed of lādes as in þe right of his dean-

Of discontinuance.

eye and maketh suche an alienation, this is a discontinuance to his successour. Also if the maistre of an hospital alieneth certaine lādes of his hospital, this is a discontinuāce and his successour can not entre, but is put to his wytte de ingressu sine assensu cōfratrum & sororum.

But if a persō oꝝ vicare of a church will alien any landes oꝝ tenementes, whiche be parcell of his glebe landes to an other in fe simple oꝝ in fe taile, and dyeth oꝝ resigneth his benefice: this is no discontinuance to his successour, but that he may very wel entre, notwithstandinge suche alienation made by his pꝛedeceffour. The cause of this difference Master Littletonne doth largely declare in his booke of Tenures, which to auoid plixitie I here omitte and remitte you to him.

Only

Of discontinuance. Fol. 78.

Only of this one thing I wil admo-
nith you, that in the. xxxij. yeare of
this kings most noble reigne, it is in-
acted, that no fine feffement oꝝ other
acte to be made oꝝ suffred by the hus-
band only, of any landes oꝝ teneimēt
being the inheritāce oꝝ frehold of his
wife, duringe the couerture betwene
them, shalbe any discōtinuāce therof,
oꝝ be pꝛejudicial oꝝ hurtful to the said
wife oꝝ to her heires, oꝝ to such as shal
haue right title oꝝ interest to the same
by the death of such wife, but that the
same wife and her heires, and such o-
ther to whom such right shall apper-
teine after her deceasse, shal & may thā
lawfully entre into all such landes &
tenemētes accoꝝding to their rightes
and titles therein.

¶ That wrongful disseisin is no
discent in the law, inacted. ā.

xxxij.

Of wrongful disseisin.

32. Hen. 8.

Where diuers persons afoze this
time haue by strength and w^o
ut title entered into lādes tenemētes
and other hereditamentes and w^og-
fully disseased & dispossessed p^r right-
ful owners and possessours therof, &
so being seased by disseisin haue ther-
of died seased by reason of whiche di-
eng seased, the parties p^r were so dissei-
sed and dispossessed o^r such other per-
sons as befoze suche discent myght
haue lausfully entred into p^r said lādes
and tenementes be therby clerely ex-
cluded of their entre into p^r said lādes
and tenementes & put to their action
foz their remedy and recouery therein:
it is enacted, that the dieg seased her-
after of any such disseisour of any lā-
des tenemētes o^r other hereditamēts
hauing no right o^r title therein shall
not

Of prescription. Fol. 79.

not be taken or demed any such discent in the lawe for to take away the entrie of any suche persons or their heires whiche at the tyme of the same discent had good and lawfull title of entrie into the saide landes tenementes or hereditamentes, Excepte that such disseasour hath had the peasible possession of the landes tenementes or hereditamentes wherof he shal so die seased by the space of five yeaeres nexte after the disseasin by hym committed without entrie or continual clayme by such as haue lawfull title therunto.

¶ The limitation of prescriptio
inacted anno. xxxii. Hen. viij.

NO person shal sue or mainteine any wytte of right, or make any title or clayme to any landes tenementes rentes annuities commons pensions porcions cozrodies, or other hereditamentes

Of prescription.

mentes of þ possession of his ancestoꝝ
oꝝ pꝛedecessoꝝ, and declare any further
season oꝝ possession of his auncestour
oꝝ pꝛedecessoꝝ, but onely of the season
oꝝ possession of his ancestoꝝ oꝝ pꝛede-
cessoꝝ, whiche hath bene seased of the
same within .lx. yeaꝛes nexte befoꝛe þ
teste of the same wꝛitte, oꝝ next befoꝛe
the said title oꝝ claime, so to be sued.

Also no persone shal sue oꝝ main-
teine any assise of Mortuorance, Co-
sinage, Ayle, wꝛit of entree vpon dis-
season done to any of his auncestoꝝ
oꝝ pꝛedecessoꝝ, oꝝ any other action
possessary, vpon the possession of any
of his auncestours oꝝ pꝛedecessours,
foꝛ any landes or other hereditamen-
tes of any further season oꝝ possessiõ
of his ancestoꝝ oꝝ pꝛedecessoꝝ, but one-
ly of the season oꝝ possession of his an-
cestour oꝝ pꝛedecessoꝝ, whiche was sea-
sed

Of prescription. Fol. 80.

sed of þ same wpythyn fifty yeres next
befoze the teste of the oꝝyginall of þ
same wꝝit. And no person shal mayn-
teyne any action foꝝ any landes oꝝ o-
ther hereditamentes bpon his owne
seasone oꝝ possessiõ therin, aboue. xxx.
yeares next befoze the teste of the oꝝi-
ginal of the same wꝝitte. Item no per-
son shal make any auowꝝy oꝝ cogni-
saunce foꝝ any rent suite oꝝ seruice, &
alledge any season of the same in his
auowꝝy oꝝ cognisance in the possessi-
on of his ancestoꝝs oꝝ pꝛedecessours,
oꝝ in his owne possession, oꝝ in þ pos-
sessiõ of any other whose estate he shal
claym to haue, aboue fifty yeres next
befoze the making of the sayd auow-
ꝝy oꝝ conysaunce. Moꝝeouer al foꝝm-
downes in reuerter, foꝝmedownes in
remainder, and scire facias bpon fy-
nes of landes oꝝ other hereditamētes
at

Of prescription

at any tyme to be sued, shall be taken
wthyn fifty yeres next after the tyme
of action fallen. And if any person do
sue any of the said actions or wyttes
for any lādes or other hereditamētes,
or make any auowry consfance pre=
scription or claime for any rente suite
seruice or other hereditamentes, and
can not pꝛoue ꝑ he or hys ancestours
or pꝛedecestours were in actuall pos=
sessiō or seassō therin at any tyme wthin ꝑ
yeres befoꝛe lymited, if the same be
trauersed or denied by ꝑ partie plain=
tiffe Demandant or auouant or by the
partie tenant or defendāt, he and his
heires shal from hensefoꝛth be vtter=
ly barred for euer of euery the sayde
wyttes actions auowries consfance
prescription title and clayme hereaf=
ter to be sued or made for ꝑ same lādꝝ
tenementes or other the pꝛemisses, for
which

Of prescription. Fol. 8r.

In which the same action writte auowrye
canysface title or claime hereafter shal
be at any tyme sewed or made.

Provided, that al persons whiche
now haue any of y^e said actions writt^s
auowries scire facias conisance pre-
scription title or claime depending, or
that hereafter shal sewe or bring any
of the sayd writt^s or actions, or make
any of the said auowries cognisances
prescription titles or clayme at any
time befoze the feaste of the ascention
of our Lorde which shalbe in the yere
of our lord a thousand five hundredeth
forty and syre, shal alledge the season
of their ancestours or predecessours,
or their owne possession and season, &
also haue al other lyke aduantage in
the same writtes actiōs auowries co-
nifances prescriptions and claymes:
as they myght haue had befoze y^e ma-
king

M. i.

king

Of prescription.

king of this statute. **P**rouided also,
that if any persones, beinge now
within the age of .xxi. yeres, or couert
barō, or in prisō, or out of this realme
of Englād, now hauing cause to haue
or bring any of þe saide wryttes or acti-
ons, or to make any auowries cogni-
sances prescription or claymes, it shal
be laful to such persōs, to sue or bring
any of the said actiōs, or to make any
of the said auowries cognisances ti-
tles or claymes at any time within fyre
yeres nexte after such persons nowe
being within age, shal accomplish the
age of .xxi. yeres, or now being couert
barō, shal be sole, or now being in pri-
son, shal be at their lybertie, or nowe
being out of this realme, shal come &
be within this realme. And that eue-
ry such persons in their sayd actions
auowries consāces titles or claymes
to

to be made sued or commenced within the said sixteene yeares, shall alledge the season of their aunccestours or predecessours, or of their own possession, or of the possession of those whose estate they shall then claime: And also within the same sixteene yeares shall haue lyke aduantages in þe same, as they might haue had before þe making of this acte.

Þrouided also, that if the sayd persons now being within age, or couert baron, in prison or out of this realme, do dye within age, or being couert, or while they shall be in prison, or out of this realme, or decease within vi. yerres next after they shall accomplishe their full age, or shall be at large, within this realme, or shall become sole, and no determination or iugement had of such titles actions or rightes so to them accrued, then the next heir of such per-

Of prescription.

Cons so dying shal enjoy lyke aduantage to sue demaund aduow declare or make their sayd tytles claymes or prescriptions within. bi. yeares nexte after the deathe of such persons, as y^e same infant after hys full age, or the sayde woman couert after y^e death of her husband, or y^e same person beinge oute of this realme after hys repayre or commyng in to y^e same, or the saide pson imprisoned after his enlargemēt and commyng out of p^ryson, myght haue had wythin. bi. yeres then nexte ensuewng by force of y^e p^rouision last befoze rehersed.

Provided also, that if any persons befoze the sayd feast of the ascencion sue any of the said actions or make any aduow^ry title or clayme, & the same happen by y^e death of any the parties therunto, to be abated befoze iugemēt

Of prescription. Fol. 83.

or determination therof had, then the
sayd persons being demaundantes or
auowantes, or making any such cog-
nisaunce p̄scription t̄tle or clayme
being than on lyue, and if not, than
their next heires, may commence their
action and make theyr auowry con-
saunce or clayme vppon þ̄ same mat-
ter within one yeaere nexte after suche
suite abated, and shal haue like adua-
tage to sue demaund auow declare or
make their said titles claymes or p̄-
scriptions within the sayd one yeaere,
as the demaundantes in suche writte
or suite abated, or as suche as did a-
uowe or make consaunce t̄tle clayme
or p̄scription, myght haue enioyed
in the sayd former action or suite.

¶ Provided furthermoze, that if any
falle verdict happen herafter to be gi-
uen in any of the sayde actions lutes

¶.iii.

auowries

Of fines.

authorizes prescriptiōs tytles or claim^s than the partie greued may haue his attaint vpon euery such verdit so giuen, and the plaintiffe in the same attaint vpon iudgement for him giuen shal haue his recouery execution and other aduantage in like maner as here tofore hath bene vfed.

Of fines.

Fines haue theire name, bycause they make a final ende and determination of all suites strifes and debates betwene men. For the due leueng wherof, it was enacted in the.iiii. yere of King Henry the seuenth, that they muste be solemnly befoze þ iustices of the common place red and proclaimed the same terme & thzee termes next folowing þ ingrosmet, at whiche tymes al þ ples must cease. And such fines shalbe a sufficient barre and discharge

charge against al persons, sauing against women that be couert baron if such women be not pr̄sūe to the same fine, oꝛ such as be within age, in pr̄isō, out of the realme, oꝛ out of their right myndes. But these fines shall not cōclude ne barre all straungers whiche haue right to entre oꝛ to haue any action, if they come within. v. yeares after suche proclamations made oꝛ (in case the cause of action falleth vnto them after the tyme so duely leuied) if they come and commence their action and suite within. v. yeares nexte after such cause of action to them accrued. And they may sue against the takers of the pꝛofittes. But if they that haue right to the same be within age, in pr̄ison, couert baron, out of the realme oꝛ not in their right memoꝝy: then their title oꝛ entrie shall be saued vnto them

Of fines.

tyl they be of ful age, out of p^{re}sent, dis-
couerted and sole, within the realme o^r
of right mynde, and then within fyue
yeres after, their action o^r entrie must
be sued o^r made with effecte

Also ye shal vnderstand, that by the
said statute of Henry the. vii. it shalbe
a good plee fo^r al straungers to saye,
that they that were parties to the fine
no^r none other to theire vse, had any
thing in the tenementes o^r landes at
the tyme of the leuying of the fine.

Furthermoze ye shal note that in
the. xxxii. yere of this king, fo^r thad-
uoyding of certaine doubttes and am-
biguities, it was enacted, that al fines
aswel hertofore leuied, as hereafter to
be leuied acco^rding to the sayd statute
of Henry the. vii. by any person of the
ful age of. xxi. yeres, of any landes o^r
other hereditamentes beinge befo^re p^{re}
fine

fine leuied in any wise intapled unto him or to any of his ancestoꝝ in possession reuerſion remaindꝛe or in vse: ſhalbe immediatly after the ſame fine leuied ingroſſed and proclainations made, a ſufficient batte and diſcharge for euer aſwel againſt him & his heirs clayming the ſame onely by force of any ſuch entaile, as againſt al other to their vse, ſo that the ſame fines be not leuied by any woman after the death of her husband, contrary to the ſtatute made the .xi. yeare of Henry 8. ſeuēth, of landes and tenementes of thinheritance or purchaſe of her husbande or of any his anceſtours giuen to her in dower for terme of lyfe or in tayle in vse or in poſſeſſion. Excepted alſo al fines leuied or to be leuied of any ſuch landes or other hereditamentes as the owners therof by any ſpeciall

Of fines.

acte of parliament made sith the said fourth yeare of Henry the. vij. be restrained from making any alpenations discontinuancies or other alterations of the same. Also of such landes as be now in sute and variace in any of the kinges courtes, or wherof any evidences be now in demande in the Chancery, or which be already couered. Excepted also fines leuied or to be leuied by any person, of landes or tenementes granted to him or to his ancestours in taile either by the king; lettres patentes, or by vertue of any acte of parliament, wherof the reuer-sion is in the king.

Of testaments or last willes.

TEstamentū in latyn is as moche to say as mentis testatio, that is a declaratiō or witnessinge of a mans mynde

Of testaments. Fol. 86.

mynd. And there be two sortes of testaments. The one is called testamentum scriptum, that is, a written testament, or a last wil by writing, and the other is called testamentum nuncupatū a testament nuncupatiue, which is when a man wyl expresse by mouth his last wil and testament wout writing, onely by calling before him certayn of his neighbours in whose presence he doth signifie by wordes his last minde and wil. And this for most parte men vse to do when for feare of sodennes of deth, they dare not abyde the writing of their wil. And this wil (onlesse it be in certaine cases) is as strong and as sure, as is a testament or laste will put in writing and sealed with the seale of the testatour.

Also ye shal vnderstād that though a testament by writinge be not sealed
with

Of testaments.

With the seale of the testatoure, yet is the testament good & effectual in the lawe.

And ye shal also marke, that where a man maketh ones his testament & wil, and afterwarde maketh an other wil by wordes: if his laste will be proved before the Ordinary, and by him put in wytyng and insealed with his seale, such last wyl shal auoid the first wil, onles it be in special cases, and so alweyes the latter wil and testament shal auoyd the former.

Finally ye shal obserue, that by an acte of Parliament made in the xxi. yeare of our soueraigne lord Kinge Henry theight, it was ordeyned that where part of the executours named in the testament of their testator wherein any landes or tenementes be willed to be solde by them: refuseth to take
vpon

Upon them the administration, & the residue do take the charge and administration therof upon them: in this case all bargaines and sales of the said landes made only by those executors that toke the administration of y^e testament upon them, shalbe as good and as effectual in the law, as if at the residue of y^e same executors so refusing had toynded with them or him, if it be but one person, in the makinge of the bargaine and sale.

¶ An acte for probate of testaments made. a. xxi. Hē. viii.

Nothing shalbe take by any person that hath auctoritie to take probacion insinuation or approbation of any testament for the probacion of the same, where the goodes of the testatour do not amounte aboue the value of, C. shillinges. Excepte to the
scribe

Of testaments.

scribe for writting therof. vi d. And for the commission of ministration of the goodes of any dieng intestate not being likewise aboue. C. Shilliges, vi d. Also none hauing power to take probacion of testaments shall refuse to approue such testaments being lawfully offred vnto them in writtinge wth wax therto affixed redy to be sealed, so that the same be lawfully proued before y^e same ordinarie to be trew. And when the goodes of the testatour do amount aboue the value of. C. Shilliges & not excede the summe of xl. li, none shall take for the probacion registering sealing and writtinge of any such testament aboue the summe of iii s. vi d. wherof to be to them y^e haue auctoritie to take the probacion. ii s. vi d. and the other. xii d. to the scribe for registering of the same.

And

And where the goodes amount aboue
xl.li. than onely .v. Shyllinges to be
taken, wherof to be to them that haue
auctozite to take the probacion. ii s. &
.vi d. and thother. ii s. vi d. to be to the
scribe for þ regestring oꝝ els if he wyl
refuse that. ii s. vi d. then he to haue
for euery .x. lines of the same testamēt
euery line conteyning in length. x. in-
ches. i d.

And they that haue auctozitie as
is aboue sayde shall approue insinu-
ate seale and regester the sayde testa-
mentes and deliuer the same sealed
wyth the seale of their office to there-
cutours for the sommes abouesaid &
that with conuenient spede without
any frustratozie delay.

And if any person dye intestate oꝝ
therecutours refuse to proue the said
testament: than they hauing auctozi-
tie

tie as is abovesaid, shal graunt thad-
 ministratiō of þe testatours goodes
 or person deceased to the widowe of
 the same person deceased or to þe next
 of kinne or to both after their discre-
 tiō, taking suretie of them for þe trewe
 administratiō of the goodes & dettes
 whiche they shal be so authorisid to
 minister. And where one or diuers
 claime thadministratiō as nexte of
 kin which be egal in degre of kinred,
 or where any one persone desireth the
 administratiō as nexte of kin where
 in dede diuers persones be in equali-
 tie of kinred: then in any such case the
 ordinarie shalbe at libertie to take one
 or mo making request. And where di-
 uers do require the administratiō, or
 where but one or mo of them and not
 al being in like degre, make request:
 than the ordinarie shal admit the wi-
 dowe

do we and him or them onely making
 request or any of them, taking nothing
 for the same where the persone decea-
 sed died not worth C.s. And if he died
 worthe C.s. and not aboue xl. li. than
 iij. vi d. onely to be taken. And the ex-
 ecutoz or administratour callinge to
 him the dettozs two at y least or such
 persons to whome any legacie was
 made and if they refuse than. ii. nexte
 of kin to the persone deceased and in
 their defaute. ii. other honest persons
 shal by their discretions make a trew
 inuentozy indented of al the goodes,
 whiche persons sweringe befoze the
 bishoppe or his officers to be trewe:
 shal deliuer the one parte therof vnto
 them, & the other kepe with himselfe,
 And none hauinge authoritie to take
 probate of testaments vpon payne
 contained in this statute shall refuse

Of testaments.

to take any such inuentory presented
or tended to them.

¶ Provided, if any person shall dis-
pose or wil by his testament any lan-
des or hereditament; to be solde, that
the mony or pofites of þ same be ac-
cōpted for goodes or catels. And they
hauing the auctorite abouesaid vpon
the deliuerie of the seale and spgne of
the testatour shall cause þ same to be
defaced and incontinent shall redeli-
uer it to þ executoz without any claime.
And if any require a copy of the testa-
ment and inuentory: than they hauig
auctoritie or their ministers, shall w-
out frustratorie delay, delyuer them a
copy takinge therfore and for the re-
gestring of the same (or els for every
ten lines. i. v) as before is specified.

¶ Provided, that where they hauing
auctoritie as is abouesaid haue vsed
to

Of testaments. Fol. 90.

to take lesse for the probate of testaments or other thinges concerning the same than is here specified: they shal take as they did befoze this acte.

Now if any that haue auctoritie to take probate of testaments or their ministers do attempte agaynste this acte: they shal forfete for euery time to the partie greued as moche mony as they shall take contrary to this acte. And ouer that .x. li. the one half to the king, the other to the partie greued, & wil sue by action of dette bñl information or otherwise in any of the kinges courtes, wherein no essoine protection nor wager of law shalbe allowed, And euery of them shalbe charged for him selfe and for none other.

Provided, that euery hauing auctoritie abouesaid, may cal befoze them euery person named executours, to the
R. ii. intente

Disposing of landes

Intent to proue and refuse the testament and to bying in inuentaries and to do euery other thinge concerninge the same, as they myght befoze this acte, so that neither they noz their ministers shal take aboue the fees limited by this acte.

¶ How landes and tenementes may be by testamēt or otherwise disposed, inacted. ā. xxxii. Hē. viii.

Every person hauing landes oz other hereditamētes holden in socage, oz of p nature of socage tenure, and not hauing any landes oz hereditamētes holden of p king by knightes seruice, oz by socage tenure in cheif oz of p nature of socage tenure in cheife, noz yet of any other person by knightes seruice: shal from p. xx. day of July in the yeaere of our lorde. M. D. xl. haue

Disposing of landes. Fol. 61.

haue full libertie & power to giue dispose & deuise aswel by testamēt in wryting, as otherwise by any acte lausfully executed in his life, al his sayd landes oꝛ hereditamentes oꝛ any of them.

And euery person hauing landes oꝛ other hereditamētes holde of ꝑ kinge in socage oꝛ of the nature of socage tenure in cheife, and hauing also any o-ther landes oꝛ hereditamentes holden of any other person in socage oꝛ of the nature of socage tenure, & not hauing any hereditamentes holden of ꝑ king oꝛ of any other by knyghtes seruice: may from the sayd tyme giue and deuise aswel by testament in wryting, as otherwise by any acte lausfully executed in his life: al his sayd landes and hereditamentes oꝛ any of them at his pleasure. Sauing to the king all his right of primer seison & reliefes, and

R.iii.

also

Disposing of landes.

also all other rightes & duties foꝛ tenures in socage oꝛ of the nature of socage tenure in chief, as hertofore hath bene accustomed, the same landes oꝛ hereditamentes to be taken and sued out of the kinges handes by the person to whom any such landes shalbe disposed willed oꝛ deuised in like manner as hath bene vsed by any heire oꝛ heires befoꝛe the making of this statute. And sauing and reseruinge also fines foꝛ alienations of suche landes tenementes oꝛ hereditamentes holde of the king in socage oꝛ of the nature of socage tenure in chiefe wherof shal be any alteration of frehold oꝛ inheritance made by wyl oꝛ otherwise as is aforesayd.

Item al persones hauing landes oꝛ other hereditamētes of estate of inheritance holden of the king in chiefe
by

Disposing of lādes. Fol. 92.

by knightes seruice oꝝ of þ nature of
knightes seruice in chiefe:shal in like
maner haue powet to gīue wyl oꝝ as-
signe two parties of the same in thꝛee
partes to be deuīded oꝝ elles as moch
of the same as shal amount to the per-
ly value of two partes of the same in
thꝛee partes to be deuīded in certai-
tie and by special diuisions as it may
be knowne in seueraltie foꝝ þ aduāce-
ment of his wife pꝛefermēt of his chil-
dꝛen and payment of his dettes oꝝ o-
therwise at his pleasure. Hauing to
the king aswel the wardship and pꝛi-
mer season of as moch as shal amōūt
to the clere perely value of the thirde
parte therof wout diminution dowre
fraude couein charge oꝝ abꝛidgement
therof: as also al fines foꝝ alienations
of al such landes and tenementes so
holden of hym by knightes seruice in
chiefe,

Disposing of landes.

chies, wherof there shal be any alteration of frehold or of inheritance made by wyl or otherwise.

And euery person hauing lades or tenementes of estate of inheritance holden of the king in chief by knightes seruice, & other landes holden of him or of any other by knightes seruice or otherwise, shall from the saide .xx. day of July haue poure to giue or assigne by his testament or otherwise as is aforesayd two partes of þe same in thre partes to be diuided or elles as moch therof as shal extend to þe yearly value of two partes of the same in thre partes to be diuided in certainty. Sauing to the king þe wardship & primer season of as moch thereof, as shal amounte to the yerely value of þe third part, wout diminution dower couein charge or subtractiō of the same or of the

Disposing of lādes. Fol. 93.
the ful pꝛofittes therof. Sauing also
al fines foꝛ alienations as is aboue-
sayde.

Item euery person holding land
oꝛ other hereditamentes onely of any
other than of ꝑ King by knightes ser-
uice and other landes and tenementes
in socage oꝛ of ꝑ nature of socage te-
nure maye geue dispose oꝛ assure by
testament oꝛ otherwise as is aforesaid
two partes therof holden by knightes
seruice oꝛ as moch as shal amount to
the ful perchy value of two partes in
maner aboue declared: And also al the
landes and tenementes holden by so-
cage oꝛ of the nature of socage tenure
at his pleasure. Sauing to the loꝛde
of the landes and tenementes holden
by knightes seruice foꝛ his wardship
as moch therof as shal amount to the
clere yearely value of the thirde parte

R. v. without

Disposing of landes.

About any diminutiō dower fraud. &c

And every person holdinge onely of þ king by knightes seruice but not in chief, or holdig of þ king by knightes seruice and not in chiefe, and also other hereditamentes of others by knightes seruice and holding also other hereditamentes of any other person in socage or of þ nature of socage tenure: may giue deuise and assure by his last will or otherwise two partes of the hereditamentes holden of the king by knightes seruice & two partes of the hereditamentes holden of any other persō by knightes seruice, or as moch of either of them as shal amoūt to the ful yearly value of two partes and also al his landes and tenemētes so holdē in socage or of þ nature of socage tenure. Sauing as wel to þ king the wardship of as moch as shal extende

Disposing of lādes. Fol. 94.

tende to the clere yearly value of the thirde parte of the same so holden of him by knightes seruice without diminution &c. As also to the lordes of whom any of the said landes or other hereditamētes bene holden by knightes seruice for wardshipp as moche of the same so holdē of them by that seruice, as shal amount to the clere yerly value of the thirde parte in maner aboue declared.

Prōvided, that if that thirde parte whiche in any of the cases abouesayd shal come to the king do not amount to the clere yearly value of the ful.iii, part of all the sayde hereditamentes wherof þe king shalbe intituled to haue the custody or prīmer season: than the kinge maye take into his handes as moch of thother two partes of þe sayd hereditamētes as with that of þe same heredi

Disposing of landes.

hereditamētes remainyng in his hādes shal make vp the clere yearly value of the thirde parte of þ̄ said lādes and tenementes so to be had to him in title of wardship and priuer lease. And like benefyte to be giuen to euerie lord of whom any such hereditamentes shall be holden by knightes seruice concernig only his thirde part for title of wardship.

Also al persons shal sue their lyeues for possessions reuerfions or remainders, and also pay relieves and heriettes like as they shuld haue done befoze þ̄ making herof. And fines for alienatiōs shal be payd in the Chancery vpon writtes of entre in the post to be obtained there after the sayd. xx. day of July for common recoveries to be suffered of any landes holden of the king in chiefe in lyke maner as is
used.

Disposing of lādes. Fol. 95:

Used bypon alienations of landes so
holden in chief by fine or feoffment.

Provided that in such cases where
fines for alienations shall be paid in
the Chancery for writtes of entre in
the poste as is aforesayde, none other
fine shall be payd in the same court for
any such writtes.

Item where two or more persons
holde of the king by knightes service
ioyntly to them & to the heires of one
of them, and he that hath the inheri-
taunce therof dyeth, his heire beinge
vnder age: the king shall haue & warde
and mariage of the body of such heire
the life of the freholder or freholders
of the landes so holden by knightes
service notwithstanding.

Sauing to al women such right
& title of dower as they owe to haue
of any landes or tenementes by the
lawes

Disposing of landes.

lawes of this realme to be assigned vnto them out of þ̄ two partes of the said landes oꝝ tenementes seuered frō the thirde parte as is abouesaide and not otherwise. And sauing also to the king the reuersions of al such tenātes in ioyntenure and dower immediatly after þ̄ death of such tenants, if they shal happen to die, during þ̄ none age of the kinges wardes.

20 Of mariages, inacted.

ā. 32. Hen. 8.

It is inacted, that from þ̄ first day of July, in the yeare of our Loꝝde a. M. D. and. XL. al mariages within this churche of Englande contracted betwene lawfull persōs, as by this act we declare al persōs to be laulful that be not pꝛohibited by gods law to marry, such mariages being contract and tolemnised in the face of the church & consummate

consummate with bodily knowledge
oz frute of chyldren oz chyldre beyng
had therein betwene þ parties so mary
ed, shal be demed & taken to be laufull
good & indissoluble, not withstādyng
any pzecontract of matrimony not cō
sūmate with bodily knowlege whiche
either of þ persons so married oz both
shal haue made with any other before
the time of contracting that mariage
whiche is solemnised and consūmate,
oz wherof such frute is ensued oz may
ensue as afoze: and not withstanding
any dispensation pzecription law oz
other thynge graunted oz confirmed
by acte oz otherwise: And that no re
seruation oz pzehibition, godes lawe
excepte, shal trouble oz impeache any
mariage without leuiticall degrees.
And that no person shal after the said
fyrst day of July afozesaid, be admit
ted

Of mariages.

ted in any of the spirituall courtes to
in this the kinges realme, or any hys
other landes and dominions, to any
procresse plee or allegation contrary to
this acte.

FINIS.

Ex libris ptim et ad m. 12

EXAEDIBVS RICHAR
DI TAVERNERI, PER
RICHARDVM BAN
KES TYPOGRA
PHVM.

Cū priuilegio ad imprimendum
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